

Research Paper

2011/12 Acas Collective Conciliation Evaluation

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2011/12 Acas Collective Conciliation Evaluation



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Executive Summary

Study background and objectives

Ecorys was commissioned by Acas in September 2011 to undertake an evaluation of its Collective Conciliation Service over the 2010/11 period. Collective conciliation is one of the primary services offered by Acas to help resolve employment disputes between employers, trade unions and other representative bodies. The aims of the research were to:

- Measure case outcomes and employee and management representatives' satisfaction with those outcomes;
- Identify the determinants of *successful* outcomes and overall customer satisfaction (in particular, examine what are the most important skills and techniques deployed by conciliators to gaining a successful outcome);
- Establish an up-to-date picture of the benefits of conciliation as perceived by its customers;
- Elicit customers' views about the various impacts of Acas collective conciliation (including economic impacts);
- Explore among customers how Acas might promote greater awareness and understanding (and hence use) of collective conciliation;
- Help inform any future professional development of its conciliators by Acas.

Methodology (page 5)

This evaluation is based on a survey of 345 customers of the Acas Collective Conciliation service between November 2010 and November 2011. The survey was implemented using Computer Aided Telephone Interviewing (CATI) techniques between January and March 2012. The survey drew on a sampling frame of 549 disputes and 782 unique contacts for the employer and Trade Union representatives involved. A response rate of 44 percent was achieved and the survey was broadly representative of the characteristics of disputes handled by Acas over the period.

Context (page 8)

The aim of collective conciliation is to help move disputing parties towards a resolution of the dispute through the expertise of an independent third party. In 2010/11, Acas provided conciliation in 1,054 collective employment disputes. The majority of users of Collective Conciliation are in the private sector (accounting for 69 percent of Acas' customers), with the public sector accounting for a further 24 percent of users.

Users tend to:

- Be large organisations, with 1000 or more employees (46 percent);

- Have higher densities of trade union memberships than average (69 percent of employees compared to 34 percent across all workplaces); and,
- Be more likely to have internal procedures in place to resolve collective disputes (88 percent compared to 43 percent of all workplaces).

There was no evidence that the customer profile of Acas had changed substantially since 2006/07 (the last time there was extensive research into the user base of the Collective Conciliation service).

Background to disputes (page 14)

The primary causes of disputes amongst those dealt with by the Collective Conciliation service in 2010/11 were issues relating to pay (involved in 45 percent of disputes) and other employment conditions (involved in 23 percent of disputes). Trade union recognition and redundancy also figured strongly (18 percent and 14 percent of disputes respectively).

Negotiations had typically been ongoing for up to 6 months before Acas became involved, with a mixture of strategies employed by either party (normal bargaining processes were used in 90 percent of disputes and escalation of issues to higher ranked personnel in 42 percent of disputes). A threat of industrial action was present in around 50 percent of disputes.

In general, users of the Collective Conciliation service engaged Acas at the point where several attempts had already been made to reach an agreement (39 percent of disputes), or where communication between the parties had ceased (23 percent of disputes). The three most frequently reported reasons for involving a third party in the dispute were:

- that the two parties had reached a point where the dispute could not be resolved by themselves (reported by 25 percent of employers and 30 percent of trade unions);
- that conciliation was written into the organisation's dispute resolution procedures (20 percent of employers and 17 percent of trade unions);
- and that they wanted to speed up resolution of the dispute (12 percent of employers and 13 percent of trade unions).

Users tended to report a preference for Acas due to positive experiences in the past (reported by 54 percent of trade unions and 31 percent of employers), and because Acas was written into the organisation's dispute resolution procedures (reported by 37 percent of trade unions and 30 percent of employers).

Conciliation process (page 28)

Conciliators employed a range of techniques and skills in the conciliation process. A consistent service was received by users in terms of explaining how the process worked, setting ground rules for conciliation, and allowing both parties to explain their position and their reasoning. Respondents most commonly suggested that conciliators helped to adopt what might be thought of as a 'systematic' approach to dealing with the issues involved in

the dispute, including dealing with issues one at a time, asking parties to identify a bottom line and prioritising issues. Smaller proportions of respondents (around two thirds) suggested conciliators took what might be called a 'pro-active' approach, such as suggesting new ideas for resolving the dispute or helping the parties draft an agreement.

In around 80 percent of cases, users reported that the conciliator actively supported them to consider scope for movement in their position, including encouraging disputing parties to think through different negotiating scenarios and the limits of their position, and acting as a sounding board for new ideas.

The survey also suggested that conciliators tended not concentrate on issues outside of the focus of the dispute. Only a small share of respondents reported that the conciliator brought in wider issues relating to employment relations (reported by 34 percent of trade unions and 25 percent of employers) or experiences from other similar disputes (reported by 36 percent of respondents).

Satisfaction (page 30)

The evidence suggests that, in general, customers display high satisfaction with the Collective Conciliation service. Overall satisfaction rates were high, with almost 50 percent of respondents giving maximum ratings for the overall conciliation service they received and an average rating of 5.9 out of 7 from employers, and 6.3 out of 7 from trade unions. Overall satisfaction rates have risen since the 2006/07 evaluation, from 5.5 amongst employers and 6.0 amongst trade unions.

Additionally, users of the service gave high satisfaction rates across all aspects of conciliator skills and behaviour (with all dimensions of conciliator behaviour receiving an average score of over 4 out of 5 – where 5 is 'very good'). Results mirrored findings from the 2006/07 evaluation.

Analysis suggested that conciliator behaviour had an influence over customer satisfaction – with the following all having a positive influence over customer satisfaction: the personal skills of the conciliator, the extent to which they helped parties develop solutions, going further in terms of working outside normal office hours and bringing in wider employment relations issues, and adopting a systematic approach. Conciliators tended to already adopt those behaviours most important in raising customer satisfaction, although there may be opportunities to raise satisfaction by going further - increasing willingness to work outside normal hours and bringing in wider employment relations issues more frequently.

Outcomes (page 39)

A successful outcome was reached in 81 percent of cases, and in 63 percent of cases respondents reported that all issues in the dispute were settled following conciliation¹.

¹ Acas management information for the survey sample suggested a slightly higher success rate of 91 percent.

Analysis of 'matched' cases where both disputing parties were surveyed suggested that there was some disagreement on the overall outcome of the case². Focusing only on those disputes where respondents agreed on the outcome, the success rate rises to 91 percent (aligning with findings of the 2006/07 evaluation). In the majority of cases (90 percent), agreed settlements were implemented in full following conciliation. Customer satisfaction with agreed settlements was also high and higher than in 2006/07: employers gave an average satisfaction rate of 5.6 out of 7 (compared to 4.9 in 2010/11), while trade unions gave an average satisfaction rate of 5.9 (4.9 in 2006/07).

Detailed analysis exploring the determinants of successful outcomes suggested that the approach adopted by the conciliator was also influential, with the quality of the conciliators' personal skills and behaviours, the extent to which they supported parties to develop solutions, and going further (in terms of working outside normal working hours and introducing wider employment relations issues) were all associated with a higher probability that all key issues in the dispute would be resolved. Again, in general conciliators already adopted the most important skills and techniques that maximise the probability of a successful outcome, although some improvements at the margins could potentially be achieved by going further (i.e. increased willingness to work outside normal office hours or introducing wider employment relations issues).

The survey suggested that disputes resulted in a wide range of longer term outcomes, most widespread of which were improvements in employment relations, including organisational ability to deal with disputes (reported by 63 percent of respondents), and communication within the organisation (60 percent of respondents). While these effects may in the long term result in improvements in staff motivation, morale and productivity, a smaller share of employers reported that conciliation had such impacts on business performance (just 28 percent of employers reported the agreement had an impact of productivity for example). This is to be expected as workplace performance outcomes are understandably less prevalent than outcomes which link directly to the aims of the Collective Conciliation process.

Impacts (page 48)

The positive results of the survey were also reflected in estimates of the wider impact of the Collective Conciliation service. Respondents indicated the service had effects in terms of helping them reach a resolution more rapidly than they otherwise would have done as well as avoiding industrial action. 63 percent of respondents reported the conciliation was very important in the resolution of the dispute, and 55 percent reported they definitely or probably would not have been able to resolve the dispute using normal bargaining procedures if the Collective Conciliation service was not available. Additionally, 35 percent reported that conciliation was very important in avoiding industrial action.

Impacts included reducing the time invested by both parties in negotiations, avoidance of applications to the Central Arbitration Committee (CAC), and enabling employers to implement more productive working practices.

² On all 'non-matched' cases, one or other party was not available for interview.

1.0 Introduction

1.1 Study background

Ecorys was commissioned by Acas in September 2011 to undertake an evaluation of its Collective Conciliation Service over 2010/11 period. Collective conciliation is one of the primary services offered by Acas to help resolve employment disputes between employers, trade unions and other representative bodies. This study involves the first comprehensive survey of users of the service since 2007.

1.2 Evaluation aims and objectives

The principal aim of the evaluation is to provide a reliable picture of the views of both managers and employee representatives towards Acas collective conciliation in 2011/12. Within that the research seeks to:

- Measure case outcomes and employee and management representatives' satisfaction with those outcomes;
- Identify the determinants of successful outcomes and overall customer satisfaction (in particular, examine what are the most important skills and techniques deployed by conciliators to gaining a successful outcome);
- Establish an up-to-date picture of the benefits of conciliation as perceived by its customers;
- Elicit customers' views about the various impacts of Acas collective conciliation (particularly economic impacts);
- Explore among customers how Acas might promote greater awareness and understanding (and hence use) of collective conciliation;
- Help inform any future professional development of its conciliators by Acas.

1.3 Methodology

This evaluation is based on survey of 345 customers of the Collective Conciliation Service between November 2010 and November 2011. The survey was implemented using Computer Aided Telephone Interviewing (CATI) techniques, with a pilot survey undertaken in December 2011 and the main body of the fieldwork delivered between January and March 2012.

The survey drew on a sampling frame of 549 disputes (including the survey pilot) and 782 unique contacts for the employer and Trade Union representatives (largely Full-Time Officers) involved. Overall, a response of 44 percent was secured through the survey. The survey was broadly representative of the characteristics of disputes handled by Acas over the period, including dispute causes, industrial sector, and dispute outcomes – and the findings presented in this report have not been reweighted.

A number of contacts provided were involved in multiple disputes over the period of interest. In these cases, the survey focused on disputes where the other party involved had already been surveyed (to maximise the extent to which the survey covered both sides of a dispute; a so called 'matched case'). If no interview had been secured with an opposing party, the survey focused on the most recent dispute. Response rates are set out in Table 1.1 below. The survey covered 270 disputes (49 percent), and in 74 disputes, both sides of the dispute were covered.

Table 1.1 Survey Response Rates by Type of Customer

| Customer Group | Interviews | Contacts | Response Rate (%) |
|--|-------------------|-----------------|--------------------------|
| Employer | 198 | 452 | 44 |
| Trade Union | 147 | 330 | 45 |
| Total | 345 | 782 | 44 |
| Disputes covered (at least one side surveyed) | 270 | 549 | 49 |
| Matched cases (both sides of disputed interviewed) | 74 | 549 | 13 |

Overall findings of the survey have been weighted to reflect the proportion of employers and trade unions involved in disputes dealt with by Acas Collective Conciliation covered by the survey (this process reduces the effective sample size to 294). Where questions relate to the facts of a particular dispute (such the cause of a dispute), where both parties involved in a dispute were surveyed their responses have been given half weight to avoid potential issues with double counting (reducing the effective sample size further to 214). Additionally, survey results largely reflect Acas monitoring information where it is possible to compare the two.

A full outline of the methodology is provided in the Technical Annex (Annex One).

1.4 Outline of report

The remainder of this report is structured as follows:

- Section 2 provides background and context on industrial disputes in Great Britain and the Acas Collective Conciliation Service, including an overview of the volume and nature of disputes that have been referred to the service over the evaluation period.
- Section 3 presents an analysis from survey results of the background of disputes received by Acas for Collective Conciliation.
- Section 4 explores the conciliation process, including the techniques employed by conciliators and customer views on the quality of the conciliation.
- Section 5 presents an analysis of the outcomes of conciliation, the influence of Acas in helping to bring about these outcomes and wider impacts on workplace performance.

- Section 6 presents an assessment of the wider impacts of the Collective Conciliation Service and the extent to which it has delivered value for money to the wider economy.
- Section 7 provides our conclusions.

2.0 Context

This section provides a brief context for the evaluation, providing an outline of the nature of collective employment disputes in the UK and the Acas Collective Conciliation service, and a brief overview of the activity of the service in 2010/11 (i.e. the operational year with most overlap with the sample frame case dates).

2.1 Collective employment disputes

Collective bargaining is the process by which employees organise themselves as a collective unit (typically through a trade union) to negotiate with their employer on changes to working conditions (such as wage settlements, working hours, or redundancy). Where the parties cannot reach an agreement through normal bargaining procedures, alternative strategies can be employed to reach a resolution. If negotiations remain at an impasse, employee representatives may resort to industrial action (in the form of stoppages at work) to attempt to force the employer to shift their position.

There has been a steady decline in the number of industrial disputes in the UK since the 1970s, stabilising at historically low levels in the 2000s. There were 127 stoppages of work due to labour disputes in 2010 compared to over 4,000 in 1970. Although the scale of collective disputes has been declining, stoppages still result in large numbers of working days lost due to industrial action, totalling 365,000 during 2010. There has also been a parallel increase in the number of individual disputes with employers over the same period, reflected in the number of claims made to the Employment Tribunal Service³.

2.2 The Acas Collective Conciliation Service

Acas has been offering free collective conciliation services in employment disputes since its creation as an independent body in 1974, and its statutory powers are defined in the 1992 Trade Union and Labour Relations Consolidation Act as follows: in situations where 'a trade dispute exists or is apprehended Acas may, at the request of one or more parties offer its assistance with a view to bringing about a settlement.' Use and provision of Acas services is voluntary to ensure disputing parties take ownership of any settlement. Additionally, Acas has no compulsion to act but usually offer its services in all cases. Formally, Acas tends to focus its substantive effort on cases in which all internal negotiation procedures have been exhausted. Of course there are often informal, often confidential discussions at the early stages of disputes and Acas encourages this to resolve disputes at the earliest possible stage.

Conciliation is a resolution mechanism involving an Acas conciliator entering a dispute to offer a new perspective and encourage parties to re-engage in negotiations, either directly

³ See for example, *Conflict At Work: The Pattern of Disputes In Britain Since 1980*, Gill Dix (Acas Research and Evaluation), John Forth (National Institute of Economic and Social Research), and Keith Sisson (University of Warwick), 2008

or via Acas. The conciliator's role is to listen to the viewpoints of each side and to communicate with the opposing side in a neutral fashion, taking an impartial perspective without judging the strengths of the positions taken by disputing parties or recommending a solution. Conciliators may offer their professional judgement of the pros and cons of positions taken by parties and their experience of other disputes, the application of good employment practice and the law in similar situations. They may also offer options for potential solutions although different conciliators may have different 'styles' in terms of the pro-activity of their approach. Through building trust with both parties, conciliators may develop knowledge of where each party is willing to make concessions and guide discussions towards a realistic and mutually acceptable settlement.

2.3 Characteristics of users of the Collective Conciliation service

As indicated in the 2010/11 Acas Annual Report, 1,054 disputes were received by Acas for Collective Conciliation 2010/11. This is an increase from 915 disputes in 2009/10 and 966 disputes in 2008/09⁴. This section looks in more detail at the characteristics of users of the Collective Conciliation service, drawing on a combination of Acas management information and the survey of Collective Conciliation customers undertaken as part of the evaluation.

2.3.1 Industrial sector

The survey results suggested that the majority of organisations taking up the Collective Conciliation service were in the private sector, accounting for 69 percent of disputes. The public sector accounted for 24 percent of disputes, and the voluntary sector for the remaining 6 percent⁵. These findings broadly reflect the findings of a similar survey undertaken in 2006/07 as part of a previous evaluation of the Collective Conciliation service⁶.

The survey did not ask respondents to report the detailed sector of industrial activity in which organisations involved disputes operated. However, Acas management information suggests users of the Collective Conciliation service in 2010/11 were concentrated in the manufacturing (25 percent) and transport, storage and communication sectors (19 percent). These two industries accounted for 10 and 6 percent of workplaces in Great Britain in 2008⁷ respectively, suggesting over-representation of these sectors in Acas' customer profile. By contrast, the wholesale and retail sector accounted for 20 percent of workplaces in the Great Britain in 2008, but for three percent of disputes dealt with by Collective Conciliation. These patterns are likely to reflect patterns of bargaining and unionisation in the relevant industries.

⁴ Acas Annual Report and Accounts 2010/11. Note that the 2010/11 operational year is under consideration since this was the accounting period which most overlaps the sample frame case dates (i.e. November 2010 and November 2011).

⁵ In order to avoid double counting of disputes where a matched case was achieved, views of both parties were given half weight.

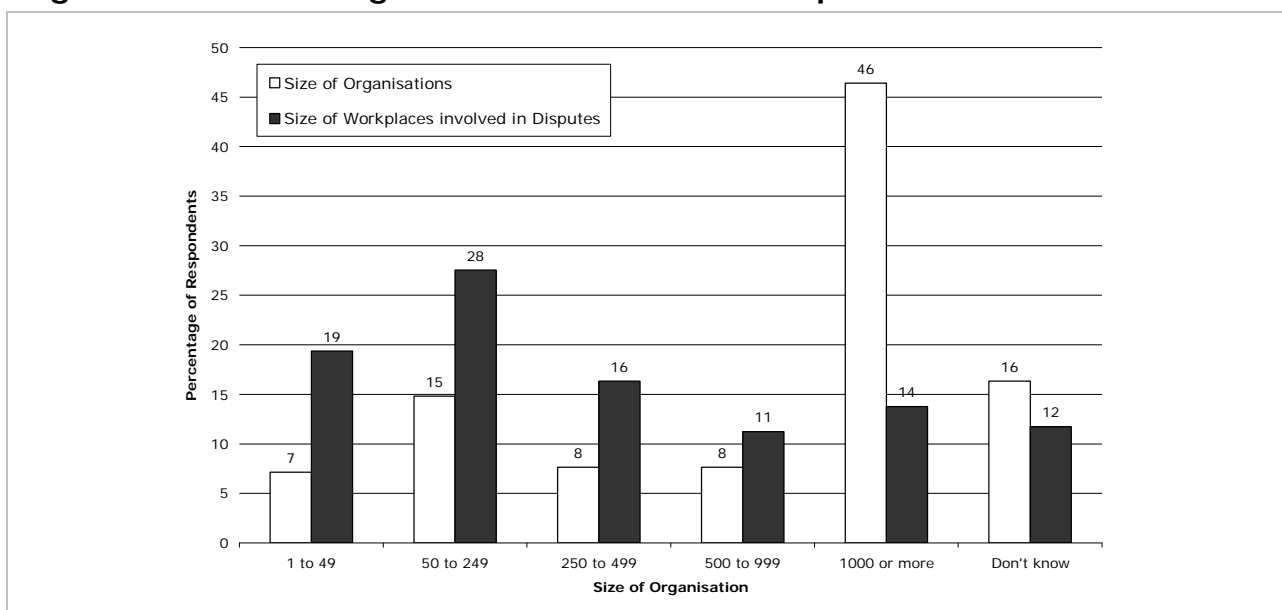
⁶ Acas conciliation in collective employment disputes, Acas Research and Evaluation, 2008

⁷ Annual Business Survey 2008, Office for National Statistics

2.3.2 Size of organisations and workplaces covered by disputes

The survey of Collective Conciliation customers asked employers to report the size of the organisation and workplace involved in the dispute. The survey suggested users of Collective Conciliation in 2010/11 were primarily large organisations with 1000 or more employees. Employers suggested that 46 percent of organisations overall and 58 percent of public sector organisations had 1000 or more employees. However, disputes tended to be restricted to workplaces with smaller numbers of employees, with 28 percent of disputes centring on workplaces with between 50 and 249 employees in total, and 19 percent centring on workplaces with 1 to 49 employees. Disputes in the public sector tended to be more widespread than in the private sector, with 40 percent of disputes covering workplaces with a combined total of 1000 or more employees (compared to 14 percent overall).

Figure 2.1 Size of Organisations Involved in Disputes



Source: Survey of Collective Conciliation customers: Base: 198 employer representatives

2.3.3 Unionisation

Organisations of the Collective Conciliation service in 2010/11 had higher trade union membership density than average. Employers responding to the survey suggested that an average of 46 percent of employees were members of a trade union, while trade union representatives tended to report higher rates of trade union membership (and this difference was observed across sectors and in matched cases).

This compares to an average across all workplaces of 34 percent, with the difference being largely accounted for by higher than average density of trade union membership in the private sector, as illustrated in Table 2.1 below. Additionally, just 2 percent of employers and trade unions representatives surveyed reported no membership of trade unions in their organisations (in these cases workers will most likely have been represented by some form of Employee Representative Body).

Table 2.1 Union presence by sector (Percentage of employees who are members of a trade union)

| | ...as reported by employer survey respondents | ...as reported by trade union rep. survey respondents | All workplaces (WERS 2004) |
|----------------------------------|---|---|----------------------------|
| Public sector unionisation... | 53 | 68 | 64 |
| Private sector unionisation... | 45 | 70 | 22 |
| Voluntary sector unionisation... | 27 | 63 | - |
| Total | 46 | 69 | 34 |
| <i>Matched cases</i> | <i>46</i> | <i>70</i> | |

Source: Survey of Collective Conciliation Customers, Workplace Employment Relations Survey 2004 – Base: All respondents (345), note that results have not been weighted by total employment, as trade union respondents were not asked to report the overall workforce size involved

2.3.4 Collective bargaining procedures⁸

A high proportion (88 percent) of Acas Collective Conciliation customers reported that they had formal procedures for handling collective employment disputes (89 percent of employers and 87 percent of trade union representatives), with no statistically significant differences by sector. Organisations using Collective Conciliation were more likely than the average organisation to have formal procedures in place, with 43 of all organisations having a dispute resolution procedure in place in 2004⁹. Analysis of matched cases suggested that trade union representatives may be more likely to report the presence of formal procedures (91 percent of trade unions compared to 85 percent of employer representatives).

Where formal procedures for the resolution of collective disputes were in place, a high proportion (69 percent of employer and 70 percent of trade union representatives) reported that these procedures included provision to refer issues to Acas. Acas was more likely to be written into formal procedures in the private sector (72 percent) than in the public sector (64 percent). The largest organisations (those with 1000 or more employees) were most likely to have Acas written into formal procedures (73 percent) – compared to around between 62 and 67 percent of organisations with fewer employees.

2.3.5 Past experience of industrial disputes

The survey of Collective Conciliation customers asked respondents to report how many collective disputes the organisation had been involved in over the past three years. 39 percent of respondents overall reported that the organisation had been involved in a single collective dispute over the period, and a further third reported they had been involved between 2 and 5 disputes. However, trade union representatives were more likely to report

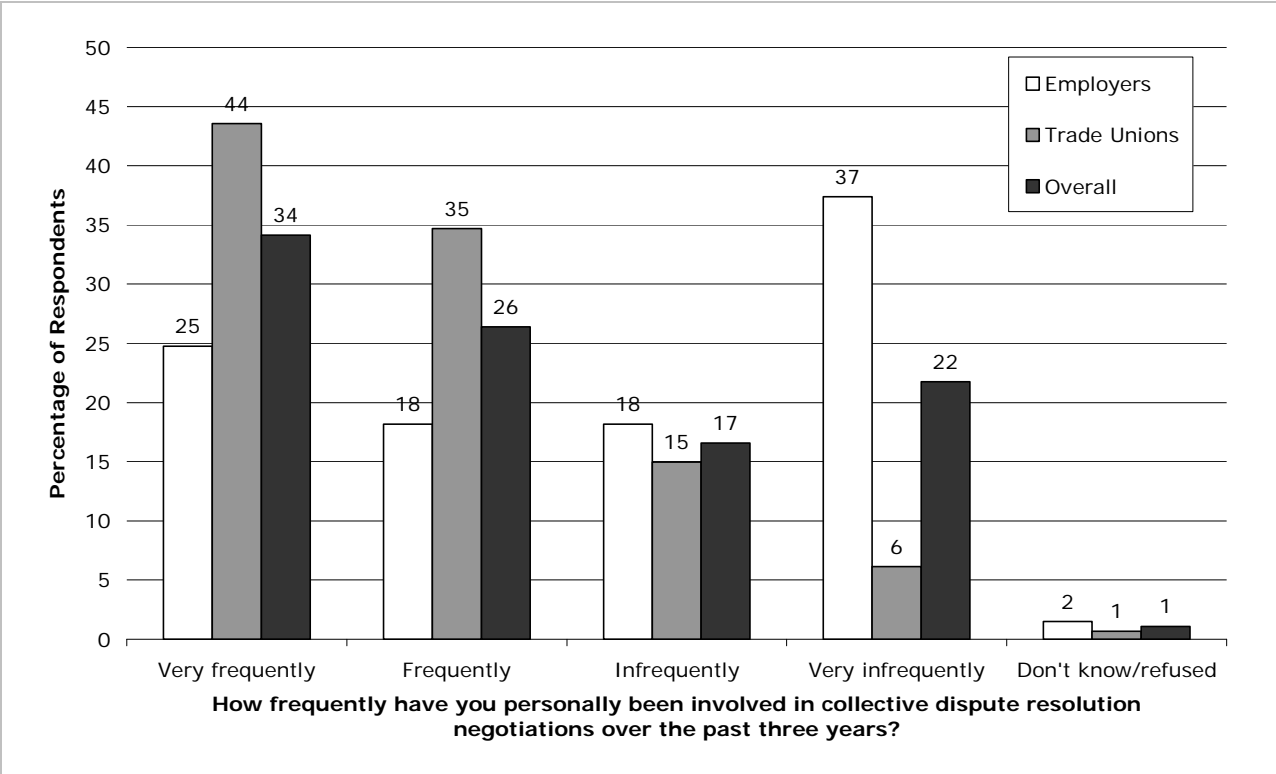
⁸ In order to avoid double counting of disputes where a matched case was achieved, views of both parties were given half weight.

⁹ Workplace and Employment Relations Survey, DTI, Acas, ESRC, and PSI, 2004

that organisations had been involved in higher numbers of disputes, with 13 percent reporting 6 or more disputes over the past three years compared to 7 percent of employers. Analysis of matched cases also suggested that trade union representatives tended to report higher frequencies of collective disputes.

Employer and trade union representatives were also asked to describe their personal experience of being involved in industrial disputes. The survey evidence suggested a bimodal distribution: around one third reporting that they had been 'very frequently' involved in collective dispute resolution over the past three years, and a further 22 percent reporting they had been 'very infrequently' involved. Employer representatives were substantially less experienced in dispute resolution than trade union representatives: almost 40 percent of employers reported they had been very infrequently involved in collective dispute resolution over the past three years, compared to 6 percent of trade union representatives.

Figure 2.2 Experience of collective disputes over the last three years



Source: Survey of Collective Conciliation customers: Base: All respondents (345), totals weighted to reflect the proportion of employer and trade union representatives covered in the survey.

2.4 Summary

- Acas has been offering free collective conciliation services in collective employment disputes since 1974 and may do so at the request of one or more parties offer its services. The aim of collective conciliation is to help disputing parties re-engage in negotiations where normal bargaining processes have reached an impasse. Conciliation involves taking a neutral perspective on the viewpoints of each side and facilitating communication with the aim of helping the parties reach a settlement that

they both take ownership of (rather than recommending a solution or judging the strength of either party's position). In 2010/11, Acas provided conciliation in 1,054 collective employment disputes.

- The majority of organisations receiving dispute resolution support from the Collective Conciliation services are in the private sector (accounting for 69 percent of cases). By comparison, the public sector accounts for 24 percent of cases. Organisations in which Acas handled disputes occur most frequently operate in the manufacturing and transport sectors (together accounting for almost 45 percent cases). Disputes typically involve large organisations with 1,000 or more employees (particularly those users in the public sector), although the disputes themselves cover a smaller proportion of the workforce with over 50 percent of disputes centred on workplaces with 500 or fewer employees.
- The workforces of Collective Conciliation customers tend to be more unionised than average (with trade union representatives tending to report higher union representation than employers), and more likely to have internal procedures in place to resolve collective disputes (89 percent compared to 43 percent of all workplaces). A high proportion of customers have provisions to refer issues to Acas written into these procedures (around 70 percent).
- Organisations using the Collective Conciliation service were experienced in dealing with collective conflict, although there was wide variation in the personal experience of the relevant employer and trade union representatives surveyed. The survey results suggested employer representatives were substantially less experienced in the resolution of collective disputes than trade union representatives, with 44 percent of trade unions involved 'very frequently' compared to 25 percent of employers.
- The results of the survey undertaken to support this research are closely aligned with the results of a similar previous survey undertaken as part of the 2006/07 evaluation of Collective Conciliation. There was no evidence that there have been substantial changes in the profile of organisations using the Acas Collective Conciliation service over the intervening period.

3.0 Background to Disputes

This section provides an analysis of the background to the disputes in which Acas provided conciliation services, based on results of the survey of Collective Conciliation customers. This section focuses on the causes of disputes, the duration and scope of disputes at the point at which Acas became involved, strategies employed by both parties to resolve disputes, and reasons for involving Acas in conciliation.

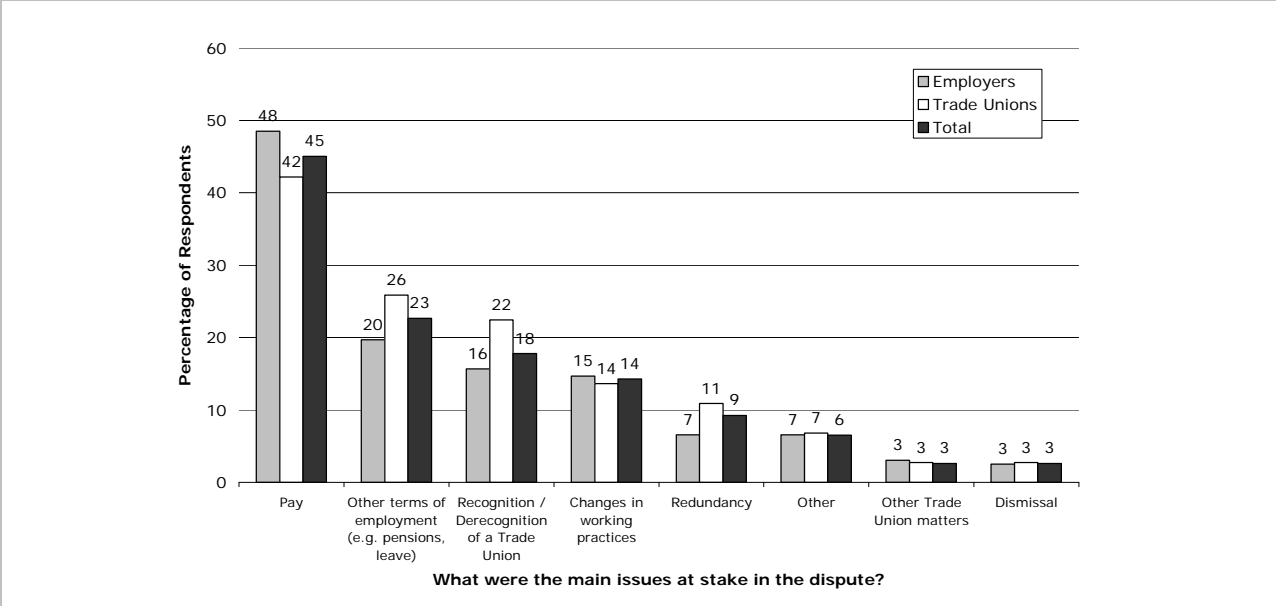
3.1 Causes of dispute

Respondents to the survey were asked to report the main issues at stake in disputes dealt with by Acas Collective Conciliation (and could record report as many issues as were relevant). The survey suggested almost half of all disputes (46 percent) involved issues around pay while 22 percent related to other terms of employment, including pensions and leave. Recognition and de-recognition of a trade union were also common causes of disputes, accounting for 18 percent of disputes, with changes in working practices accounting for a further 14 percent.

Trade union representatives were less likely than employers to report pay issues as a cause of disputes and more likely to report issues relating to other terms of employment, recognition and de-recognition issues, and redundancy. However, analysis of matched cases suggested that while both parties involved in disputes were equally likely to report pay as a key issue (45 percent of both groups), trade union representatives were more likely to report a wider range of underlying causes.

The overall pattern of dispute causes was broadly in line with those found in the 2006/07 evaluation of Collective Conciliation, although the frequency of disputes relating to redundancy has increased, most likely due the challenging economic conditions that have persisted between 2008 and 2011. The survey results also closely reflected Acas monitoring data on the underlying causes of disputes.

Figure 3.1 Causes of disputes handled by Collective Conciliation



Source: Survey of Collective Conciliation customers, 2010/11, Base: All respondents (345) totals weighted to reflect the proportion of employer and trade union representatives covered in the survey, and matched cases have been given half weight to avoid issues with double counting. Note that differences between employers and trade union representatives are not statistically significant.

3.2 Duration and scope of dispute

Respondents were asked to report how long after the start of negotiations Acas became involved. The survey suggested that Acas became involved in disputes within six months of the start of negotiations in the majority of disputes (78 percent of both employee and trade union representatives¹⁰). A small number of respondents reported that negotiations had been on-going for one year or more (5 percent).

However, analysis of both overall results and matched cases suggested that employers tended to report that disputes had been ongoing for shorter durations of time. 18 per cent of employers and 9 percent of trade union representatives *involved in the same disputes* reported that Acas had become involved within one month of the start of negotiations, while trade union representatives were more likely to report that these negotiations had in fact taken place for between two and six months.

Respondents were also asked to report the scope of disputes in terms of the numbers of workplaces affected. In general, disputes tended to be confined to a single workplace (33 percent in single site organisations, and 39 percent in multi-site organisations). 26 percent of disputes related to more than one workplace within the organisation. This largely reflects the pattern of disputes described in the 2006/07 evaluation of the Collective Conciliation service.

¹⁰ Matched cases were given half weight to address potential issues with double counting.

Table 3.1 Scope of workplaces in which disputes took place

| | <i>A single independent workplace not belonging to any other organisation (%)</i> | <i>One of a number of workplaces belonging to the same organisation (%)</i> | <i>More than one workplace belonging to the same organisation (%)</i> | <i>Don't know/refused (%)</i> | Total (%) |
|---------------------|---|---|---|-------------------------------|------------------|
| Employers | 36 | 36 | 27 | 2 | 100 |
| Trade unions | 30 | 42 | 26 | 2 | 100 |
| Total | 33 | 39 | 27 | 2 | 100 |

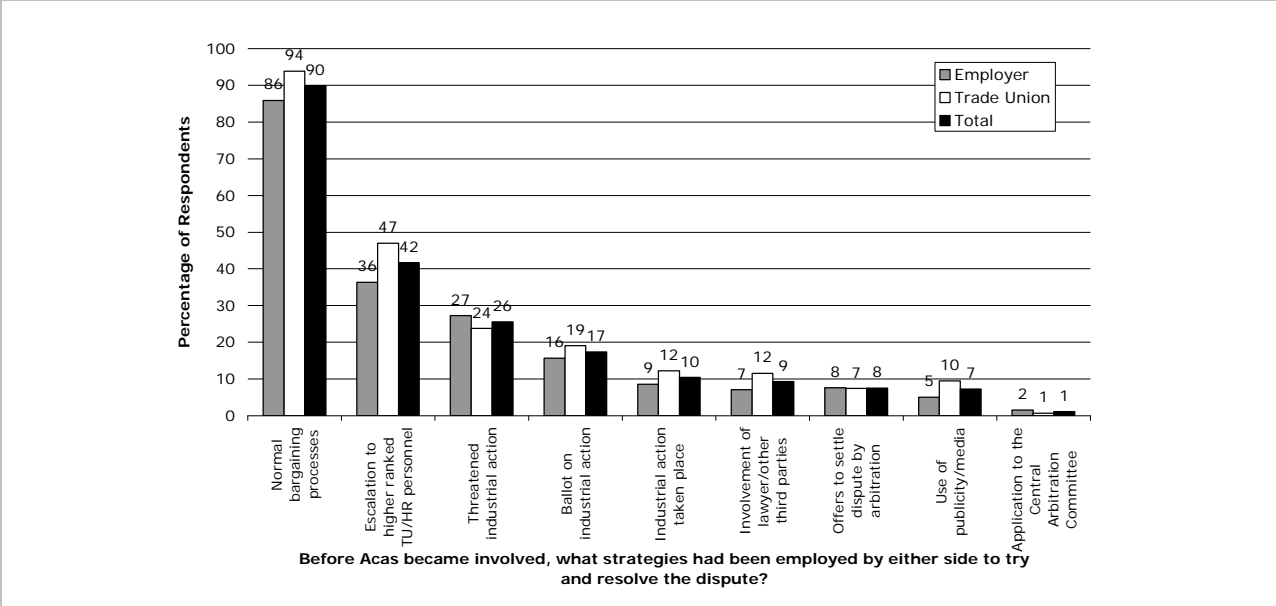
Source: Survey of Collective Conciliation Customers, Base: All Respondents (345) totals weighted to reflect the proportion of employer and trade union representatives covered in the survey, and matched cases have been given half weight to avoid issues with double counting.

3.3 Strategies employed to resolve disputes

Respondents to the survey were asked to report what strategies had been employed by either side to resolve disputes prior to Acas' involvement. Overall, 89 percent of respondents reported that they had used normal bargaining processes, suggesting that a small share of respondents had moved to conciliation before testing how far disputes could be resolved through internal processes. Escalation of the issue to higher ranked personnel was also a frequently used strategy, reported by 41 percent of respondents. Other types of dispute resolution strategy (such as involving other third parties, or using publicity or media) were less frequently reported by respondents.

The threat of industrial action (including strike actions, and other actions short of a strike such as overtime bans and work to rule orders) was less widely employed in disputes at the time Acas became involved. 26 percent of respondents reported that industrial action had been threatened, and a ballot had taken place in 17 percent of disputes, and in 10 percent of disputes, industrial action had already taken place at the time Acas became involved (primarily strike or stoppage actions).

Figure 3.2 Strategies employed to resolve disputes before Acas became involved



Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345), aggregate responses of trade unions and employers given equal weight in totals

There was little in the way of marked differences between trade unions and employers in terms of the pattern of reported strategies employed by either side to resolve disputes. However, employers were less likely to report the deployment of strategies both across the board, as well as with respect to measures related to industrial action.

Analysis of matched cases suggested that there was in general agreement on how far strategies relating to industrial action had been employed, as illustrated in the table below. Both parties agreed in 80 percent of disputes on whether a particular strategy had been employed. 14 percent of employers felt there was a threat of industrial action which was not reciprocated by the relevant trade union, with the reverse the case in 7 percent of cases. In 12 percent of disputes, the trade union but not the employer reported a ballot had taken place (the reverse was true in 4 percent of cases).

Table 3.2 Threat of industrial action, ballots and action taking place – matched cases

| | <i>Both agree (%)</i> | <i>Employer agrees only (%)</i> | <i>Trade union rep. agrees only (%)</i> | <i>Both disagree (%)</i> |
|-------------------------------|-----------------------|---------------------------------|---|--------------------------|
| Threat of industrial action | 16 | 14 | 7 | 64 |
| Ballot on industrial action | 11 | 4 | 12 | 73 |
| Industrial action taken place | 4 | 1 | 4 | 91 |

Source: Survey of Collective Conciliation Customers, matched cases only (74 disputes)

3.3.1 Strike and stoppage action taking place

Where respondents reported that a strike or stoppage had taken place, they were asked to report how many days of action had taken place and how many employees were involved. In the majority of disputes (57 percent) the strike or stoppage action had lasted for five days or less, with six to nine days of action taken in 25 percent of disputes (given the low numbers of respondents involved, no analysis of matched cases was undertaken here).

Table 3.3 Number of days of strike or stoppage actions taking place

| | <i>1 to 5 days of strike/ stoppage (%)</i> | <i>6 to 9 days of strike/ stoppage (%)</i> | <i>10 days or more of strike/ stoppage (%)</i> | <i>Don't know/ refused (%)</i> | Total (%) |
|---------------------|--|--|--|--------------------------------|------------------|
| Employers | 60 | 20 | 10 | 10 | 100 |
| Trade unions | 58 | 25 | 0 | 17 | 100 |
| Total | 57 | 25 | 4 | 14 | 100 |

Source: Survey of Collective Conciliation Customers, Base: Respondents reporting strike or stoppage action had taken place (22), totals weighted to reflect the proportion of employer and trade union representatives covered in the survey, with matched cases have been given half weight to address issues with double counting

In terms of the numbers involved, industrial action tended to be of a moderate scale, with 54 percent involving between 51 and 250 workers (20 percent involved fewer than 50 workers, and 18 percent involved 251 or more workers)¹¹.

Table 3.4 Number of workers involved in strike or stoppage action

| | <i>Less than 50 workers (%)</i> | <i>51 to 250 workers (%)</i> | <i>251 or more workers (%)</i> | <i>Don't Know / Refused (%)</i> | Total (%) |
|---------------------|---------------------------------|------------------------------|--------------------------------|---------------------------------|------------------|
| Employers | 20 | 50 | 30 | 0 | 100 |
| Trade unions | 25 | 50 | 17 | 8 | 100 |
| Total | 20 | 54 | 18 | 7 | 100 |

Source: Survey of Collective Conciliation Customers, Base: Respondents reporting strike or stoppage action had taken place (22), totals weighted to reflect the proportion of employer and trade union representatives covered in the survey, with matched cases have been given half weight to address issues with double counting

3.3.2 Threat of strike or stoppage action (or further action)

Respondents were also asked to report whether there was a threat of industrial action at the point at which Acas got involved (or further action if industrial action had already taken place). As shown in Table 3.5 below, respondents reported there was a threat of industrial action (or further action) in around half of all disputes, and in 23 percent of cases a ballot had taken place.

¹¹ Insufficient numbers of respondents in matched cases reported industrial action had taken place to permit further analysis here.

Table 3.5 At the time Acas became involved was there any risk of (further) industrial action? (Percentage of responses)

| | <i>Yes - but no ballot had taken place (%)</i> | <i>Yes - and a ballot had taken place (%)</i> | <i>No threat of industrial action (%)</i> | <i>Don't know / Refused (%)</i> | Total (%) |
|---------------------|--|---|---|---------------------------------|------------------|
| Employers | 24 | 21 | 53 | 2 | 100 |
| Trade unions | 29 | 24 | 45 | 1 | 100 |
| Total | 27 | 23 | 49 | 1 | 100 |

Source: Survey of Collective Conciliation Customers – Base: All respondents (345) totals weighted to reflect the proportion of employer and trade union representatives covered in the survey, with matched cases have been given half weight to address issues with double counting

Analysis of matched cases suggested that in 64 percent of cases, both parties agreed about the risk of (further) industrial action *and* whether or not a ballot had taken place; while in 76 percent of cases both parties agreed on whether there was any risk of industrial action at all. In a minority of disputes (24 percent), one party felt there was a risk of industrial action while the other did not – and in 72 percent of these disputes it was the trade union representative reporting the risk. This indicates that in some cases, employers may underestimate the potential threat of industrial action which may have an influence over negotiation strategies (or alternatively, trade unions overestimate the likelihood of or appetite for industrial action).

In terms of the *type* of industrial action at risk, in 75 percent of disputes a strike or stoppage was at risk, in 27 percent an overtime ban, and in 21 percent a work-to-rule action (see Table 3.6 below). In general, employers reported higher levels of uncertainty over the potential action at risk than trade union representatives. However, analysis of matched cases suggested that where both parties agreed industrial action had been at risk, in 81 percent of disputes both parties had the same understanding on the *nature* of the action at risk.

Table 3.6 What type of (further) industrial action was at risk? (Percentage of responses)

| | <i>Strike or stoppage (%)</i> | <i>Overtime ban (%)</i> | <i>Work to rule (%)</i> | <i>Other (%)</i> | <i>Don't know/ refused (%)</i> | Total (%) |
|---------------------|-------------------------------|-------------------------|-------------------------|------------------|--------------------------------|------------------|
| Employers | 72 | 20 | 19 | 3 | 18 | 100 |
| Trade unions | 82 | 30 | 22 | 4 | 6 | 100 |
| Total | 75 | 27 | 21 | 4 | 12 | 100 |

Source: Survey of Collective Conciliation Customers – Base: All respondents (345) totals weighted to reflect the proportion of employer and trade union representatives covered in the survey, with matched cases have been given half weight to address issues with double counting

Among those respondents who envisaged (further) strike or stoppage action, there was some uncertainty over the predicted duration of that action, with 46 percent (42 percent of trade union reps and 48 percent of employers) reporting that they did not know how long they expected the action to endure. However, amongst those able to respond, a substantial majority (around 80 percent of both employers and trade union reps) reported that 1 to 5

days of strikes or stoppages would be expected. There was more certainty over the *numbers* of potential workers involved, with 44 percent of respondents expecting between 51 and 250 employees to be involved in strike or stoppage action, with close to 25 percent of respondents expecting more employees to be involved and the same proportion expecting fewer. Again, these results align with the findings of the 2006/07 evaluation of Collective Conciliation.

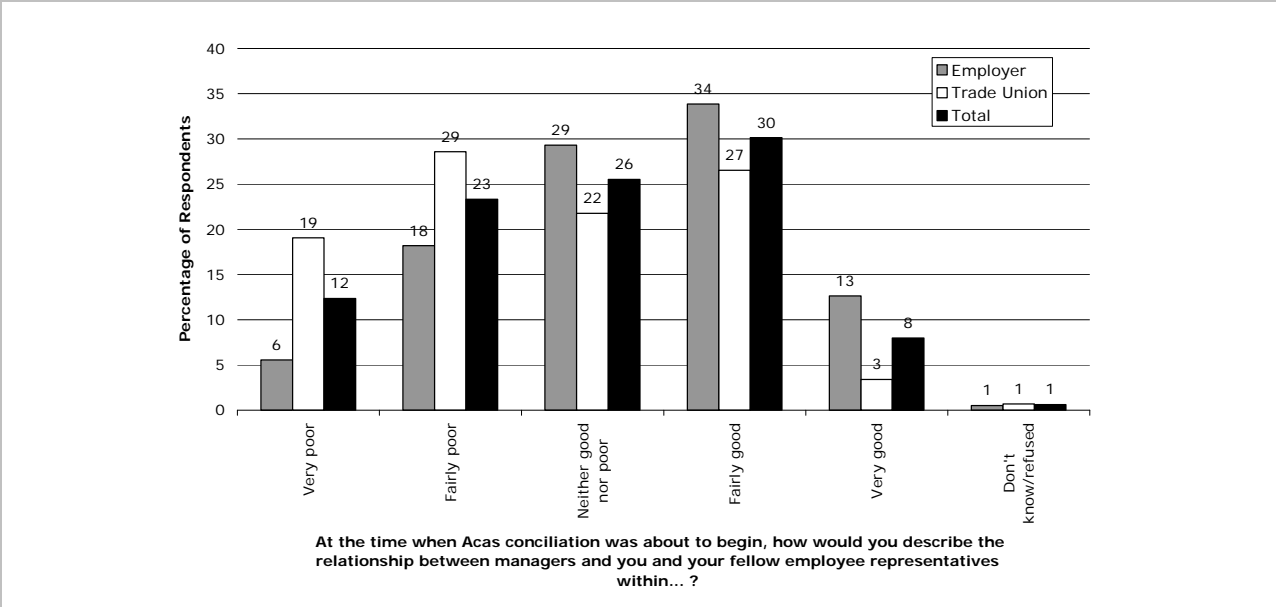
Analysis of matched cases suggested that there were very few cases in which both sides of a dispute were able to indicate how many days of strike action were likely to be involved (where both sides agreed industrial action was a risk). However, in two thirds of disputes, employers reported that a larger number of workers would be involved than was reported by the corresponding trade union representative.

3.4 Relationships between management and workers

Overall, respondents provided mixed responses on the perceived quality of the relationships between management and workers as conciliation began. 38 percent of respondents reported that relationships between workers and management were 'very good' or 'good,' while 34 percent reported that relationships had been 'poor' or 'very poor.' As can clearly be seen in Fig. 3.3. (below), employers were significantly more likely than trade union reps to report that the relationship between managers and employee representatives were good at the time when Acas conciliation was about to begin. Among respondents representing trade unions, 19 percent reported the relationship to be very poor (compared to six percent of employers). Conversely, 34 percent of employers described the relationship as fairly good (compared to 27 percent of trade union representatives) and 13 percent described the relationship as very good (compared to three percent of trade unions).

The difference between the perspectives of employer and trade union representatives on the state of relationships between management and workers at the point conciliation began were systematic. In matched cases, just 19 percent of representatives of both sides of a dispute agreed on the state of relationships between management and workers, and in 61 percent cases where both disputing parties were interviewed, employers felt that relationships were of a higher quality than did the trade union representative.

Figure 3.3 Relationships between management and workers at the point conciliation began



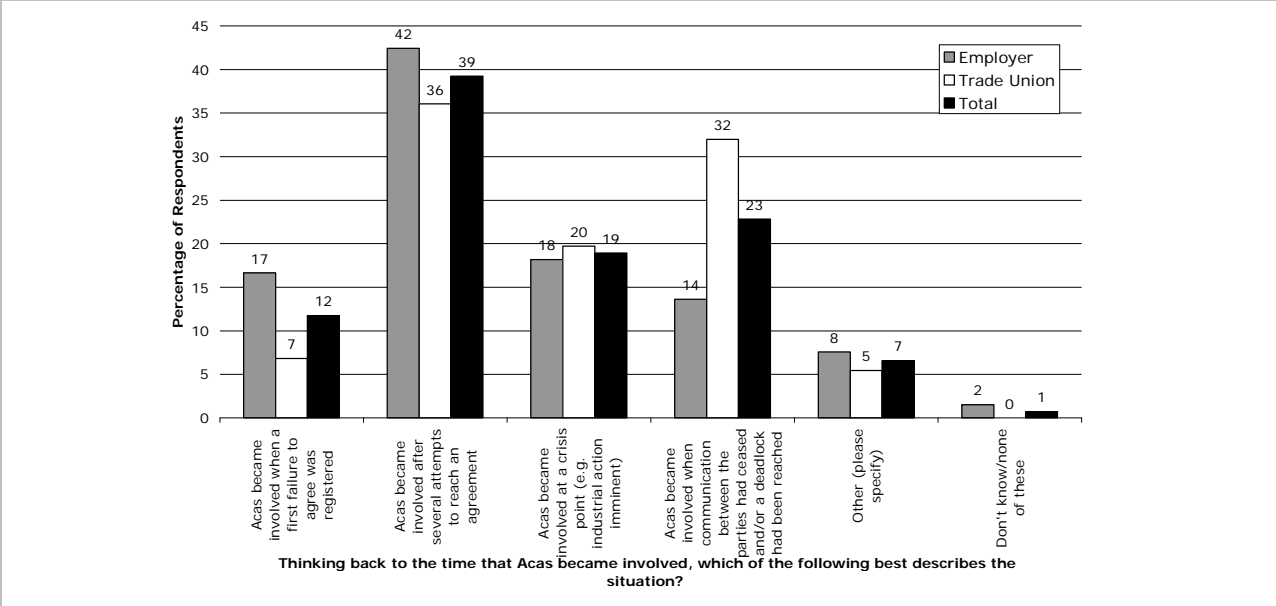
Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345), aggregate responses of trade unions and employers given equal weight in totals

3.5 State of negotiations as conciliation began

Respondents to the survey were asked to describe the situation at the point Acas became involved. As can be seen in Figure 3.4 (below), respondents suggested that Acas primarily became involved in disputes after several attempts to reach an agreement had been made (39 percent of cases), or where communication between parties had ceased (23 percent of cases). A further 19 percent reported that Acas became involved at crisis point (e.g. industrial action was imminent), and 12 percent reported that Acas became involved when a failure to agree was first registered. This is a similar pattern to that which emerged from the 2006/07 survey.

Analysis of matched cases suggested there was substantial disagreement between employers and trade union representatives as to the perceived circumstances in which Acas became involved, with just 35 percent agreeing. There was no clear pattern to these different views, although trade union respondents were substantially more likely to report that Acas was involved at the point where communication between the two parties had ceased.

Figure 3.4 State of negotiations as conciliation began

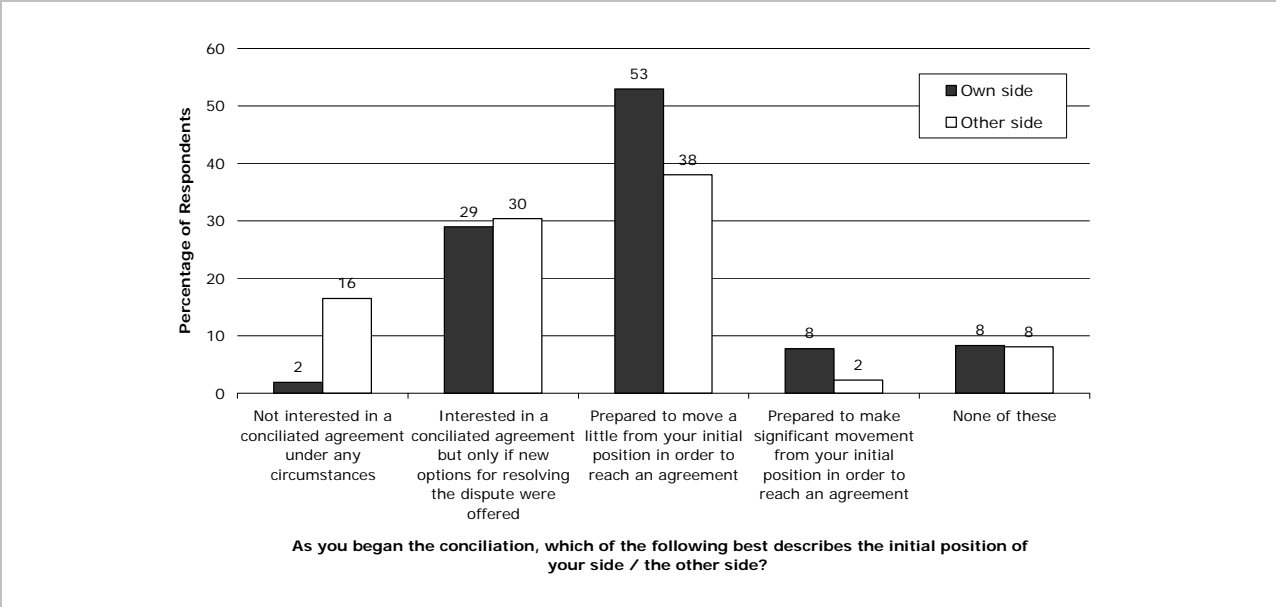


Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345), aggregate responses of trade unions and employers given equal weight in totals

The survey also explored the negotiation positions of parties as conciliation began, and their perception of the position of the other side. Over half of respondents reported that they had been prepared to move a little from their initial position to reach an agreement, and a further 28 percent would have been interested in conciliation if new options to resolve the dispute were offered. Few respondents reported they were not interested in a conciliated agreement at all, or were prepared to make a *significant* movement from their initial position.

However, as is clearly shown in Figure 3.5 (below), respondents tended to perceive the other side’s position as having been less conciliatory than their own, with 16 percent of respondents overall describing the initial position of the other side as not interested in a conciliated agreement under any circumstances. Trade Union reps were more likely than employers to report this perception, as was the case in 2006/07 (although respondents tended to view the other side’s position as having been more conciliatory than in the previous study).

Figure 3.5 Perceptions of disputing parties' bargaining positions as conciliation began



Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345), aggregate responses of trade unions and employers given equal weight in totals

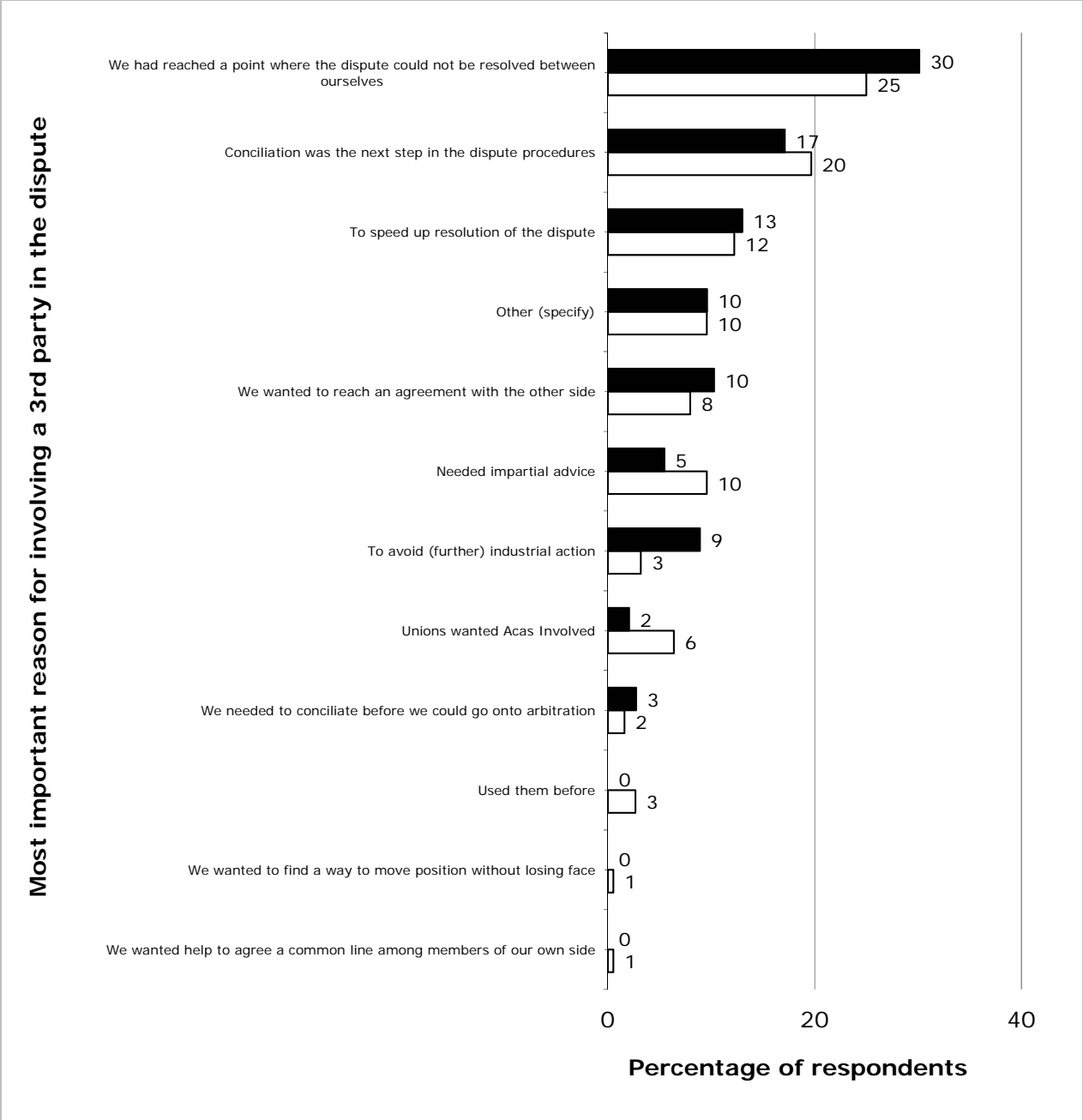
Analysis of matched cases was used to explore this in more detail. In 35 percent of disputes both parties were willing to make a small or significant movement from their initial position, and in almost all remaining disputes either side were interested in a resolution if new options could be offered. However, both trade union reps and employers tended to underestimate how far the opposing side were willing to negotiate. Where the trade union representatives themselves reported that they had been willing to move from their initial position, only 45 percent of employers felt they would have done so. Likewise, where employers reported that *they* had been willing to move from their position, just 35 percent of trade unions felt they would do so. These findings may be influenced by a form of strategic response bias, with interviewees wanting to give an impression to interviewers that they were more conciliatory in their approach than they were in reality. However, as perceptions of the opposing sides' willingness to negotiate are likely to influence bargaining patterns, this evidence does highlight the potential for independent third parties to help bring disputants closer together.

3.6 Reasons for involving a third party

Respondents were next asked to report why they had chosen to involve a third party in the dispute. The most commonly given reason was that they reached a point where the dispute could not be resolved between the parties (given by 43 percent of respondents overall, and selected as the most important reason by 27 percent). 27 percent of respondents reported that conciliation was the next step in their dispute resolution procedures (the most important reason for 19 percent of respondents), and 17 percent reported that they wanted speed up resolution of the dispute (most important for 13 percent). These were also the three most commonly reported reasons in the 2006/07 study.

There were some differences between the perspectives of employers and trade unions. Trade Union representatives were more likely to say that the main reason for involving a third party was that the dispute could not be resolved between the two parties, or that they wanted to avoid industrial action. Employers were more likely to report that they needed impartial advice or that the Union wanted Acas to be involved.

Figure 3.6 Most important reasons for involving a 3rd party in the dispute



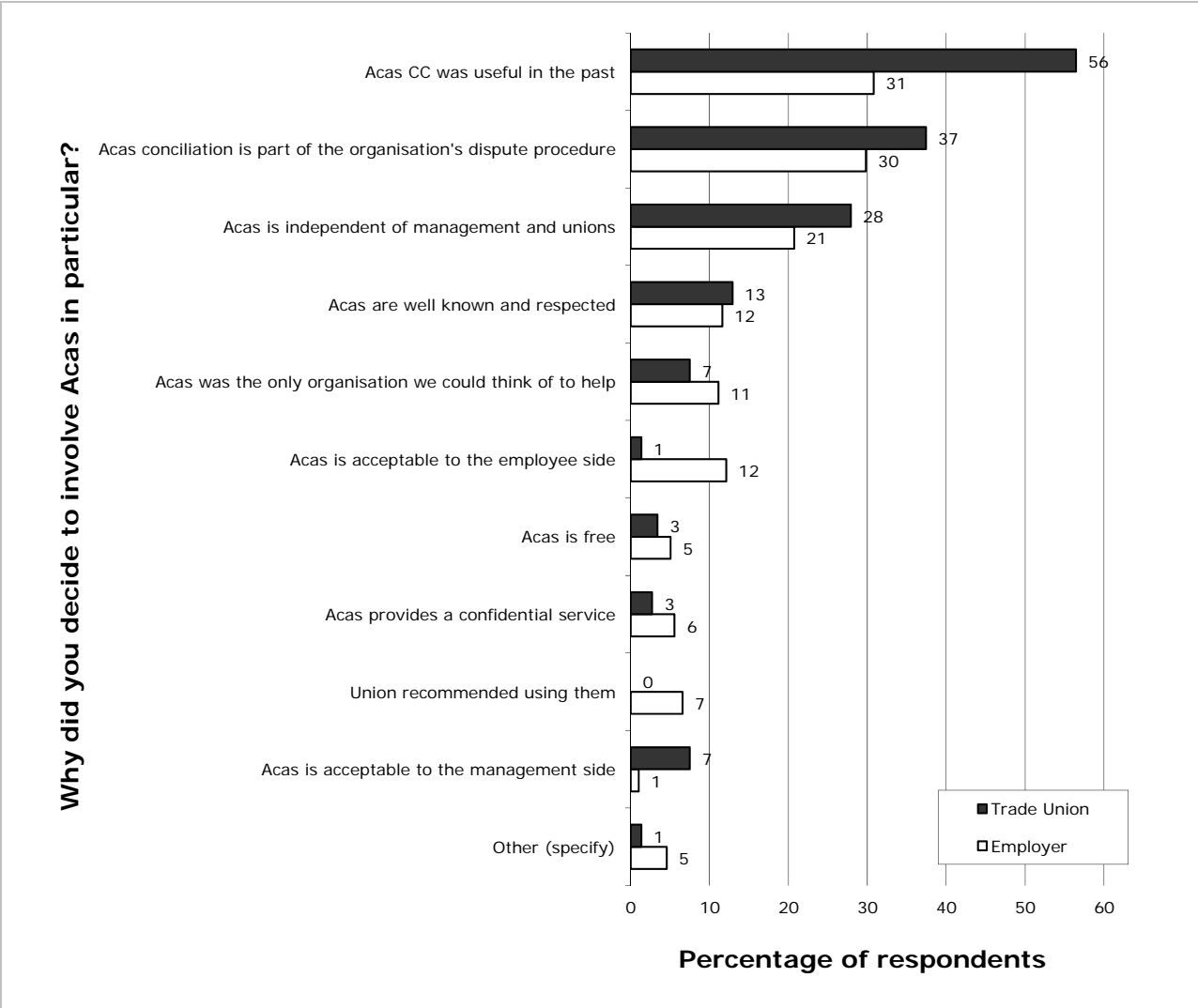
Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345)

Respondents were also asked why they specifically decided to use Acas conciliation in particular. As can be seen, 42 percent of respondents overall reported that Acas Collective Conciliation had been useful in the past (with 27 percent reporting that this was their most important reason for engaging Acas). 33 percent reported that Acas Conciliation was part of

the organisation's dispute procedure and 24 percent cited Acas' independence of management and trade unions as a reason for using the service. Trade Union representatives were more likely to report that Acas Collective Conciliation was useful in the past, that Acas was part of the organisation's dispute resolution procedures, and that Acas was independent of management and unions.

Again, this was a similar pattern of responses to those given in the 2006/07 evaluation of Collective Conciliation. However, the proportion of respondents pointing to fact that Acas collective conciliation had been useful in the past has risen substantially amongst both employer and trade union representatives (with 16 percent of employers and 36 percent of trade unions representatives giving this as reason in the previous evaluation), and is potentially indicative of increasing levels of repeat use and customer satisfaction.

Figure 3.7 Reasons for involving Acas in the dispute

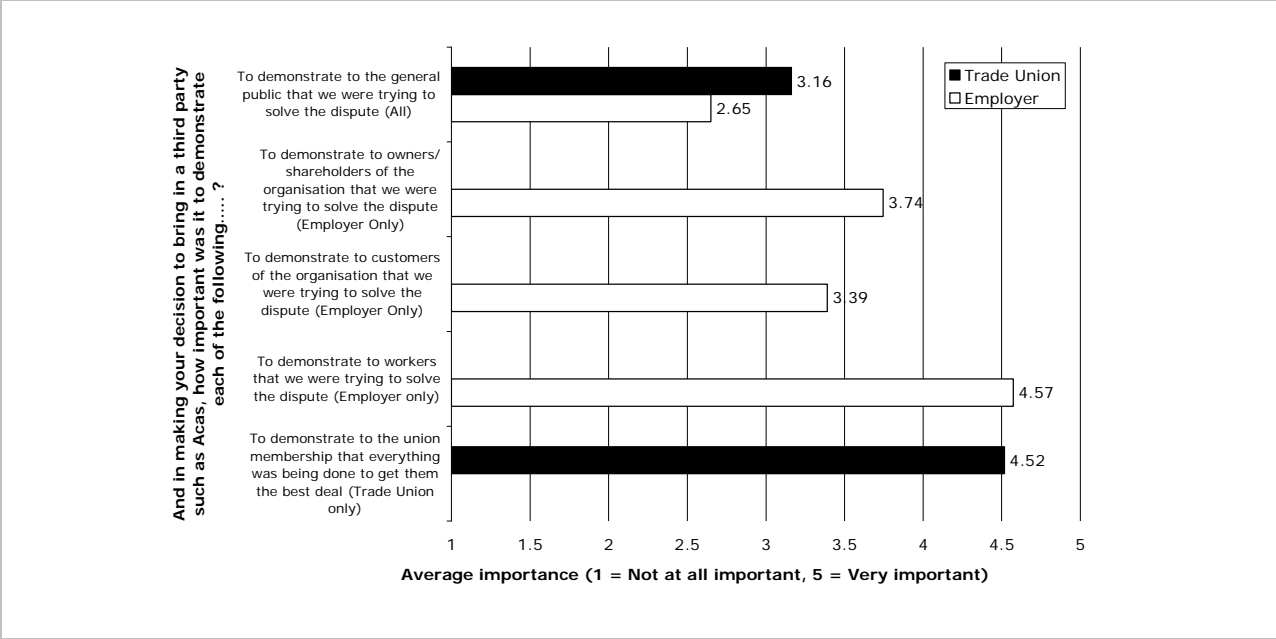


Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345)

Respondents were asked to rate how important different factors were in their decision to bring in a third party such as Acas on a scale of one to five. For trade unions, the most important factor was to demonstrate to the union membership that everything was being done to secure the best deal (average rating of 4.52 out of 5). For employers, it was most

important to demonstrate to the workers that they were trying to solve the dispute (average rating of 4.57 out of 5); more so than demonstrating to customers and owners or shareholders their intention to solve the matter (a lower average rating of 3.39 out of 5). Showing the public they were trying to resolve the dispute was of relatively little importance for either party. These results appear in graph form at Fig. 3.8 (below).

Figure 3.8 Priorities for decisions to involve a third party such as Acas



Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345)

3.7 Summary

- The primary cause of disputes received by Acas for Collective Conciliation in 2010/11 were issues relating to pay (an issue in 45 percent of disputes) and other employment conditions (an issue in 23 percent of disputes), with trade union recognition and redundancy also figuring strongly. Disputes tended to be centred on a single workplace (72 percent of disputes), and negotiations had typically been on-going for up to 6 months before Acas became involved.
- Users of the Collective Conciliation service typically reported that they had employed a mixture of strategies to resolve the dispute before Acas became involved. Most frequently reported strategies included attempts to resolve the dispute through normal bargaining processes (reported in 90 percent of disputes), and escalation of issues to higher ranked personnel (reported in 43 percent of disputes). The threat of industrial action was present in around 50 percent of disputes, largely a risk of strikes or stoppages. In the majority of disputes the strike or stoppage action lasted for five days or less and involved between 51 and 250 workers.
- A mixture of responses was given with respect to relationships between workers and management at the beginning of conciliation, with similar proportions of respondents reporting that relationships were good and poor (around 40 percent). However,

employers consistently felt that working relationships were of a higher quality than trade union officials.

- In general, users of the Collective Conciliation service engaged Acas at the point where several attempts had been made to reach an agreement, or where communication between the parties had ceased. Users were typically willing to move at least a little from their initial position, but often felt that the opposing side had adopted a less conciliatory position.
- The three most frequently reported reasons for involving a third party in the dispute were that the two parties had reached a point where the dispute could not be resolved by themselves (reported by 30 percent of trade unions and 25 percent of employers); that conciliation was written into the organisation's dispute resolution procedures (reported by 17 percent of trade unions and 20 percent of employers); and that they wanted to speed up resolution of the dispute (reported by 13 percent of trade unions and 12 percent of employers). Users tended to report a preference for Acas due to positive experiences in the past (reported by 56 percent of trade unions and 31 percent of employers), and that Acas was written into the organisations dispute resolution procedures. The key priorities for engaging a third party were to demonstrate to union membership that everything was being done to secure the best deal for their members (for trade unions), and to demonstrate to workers that they were trying everything to resolve the dispute (for employers).
- There was no evidence that the background to disputes has changed substantially since the 2006/07 evaluation. However, there was some evidence that increasing proportions of customers decided to involve Acas because conciliation had proved useful in the past (36 percent of trade unions and 16 percent of employers reported this as a reason in 2006/07). This could potentially be indicative of increasing repeat use and customer satisfaction.

4.0 The Conciliation Process

This section explores the techniques employed Acas conciliators before and during the conciliation process. It also looks at customer satisfaction with the conciliation and the approach taken by the conciliator.

4.1 Techniques employed by conciliators

The survey explored the techniques employed by conciliators in terms of explaining how the conciliation process worked (and associated ground rules), and allowing both sides to articulate their positions. As shown in Table 4.1, a relatively consistent service was provided in this regard, with the majority of respondents reporting that the conciliator had taken the time to explain the principles of the process and understand the perspectives of both sides.

Table 4.1 Before or during the conciliation did the conciliator do any of the following? (Percentage reporting 'Yes')

| <i>Techniques</i> | <i>Employer</i> | <i>Trade Union rep.</i> | <i>Total</i> |
|--|-----------------|-------------------------|--------------|
| Explain how conciliation worked | 94 | 95 | 95 |
| Explain that there are no legal implications to the conciliation | 97 | 94 | 95 |
| Set ground rules for the conciliation | 93 | 94 | 93 |
| Explain rules regarding confidentiality | 95 | 95 | 95 |
| Allow your side to explain how they saw the situation | 99 | 100 | 99 |
| Allow the other side to explain how they saw the situation | 98 | 99 | 99 |

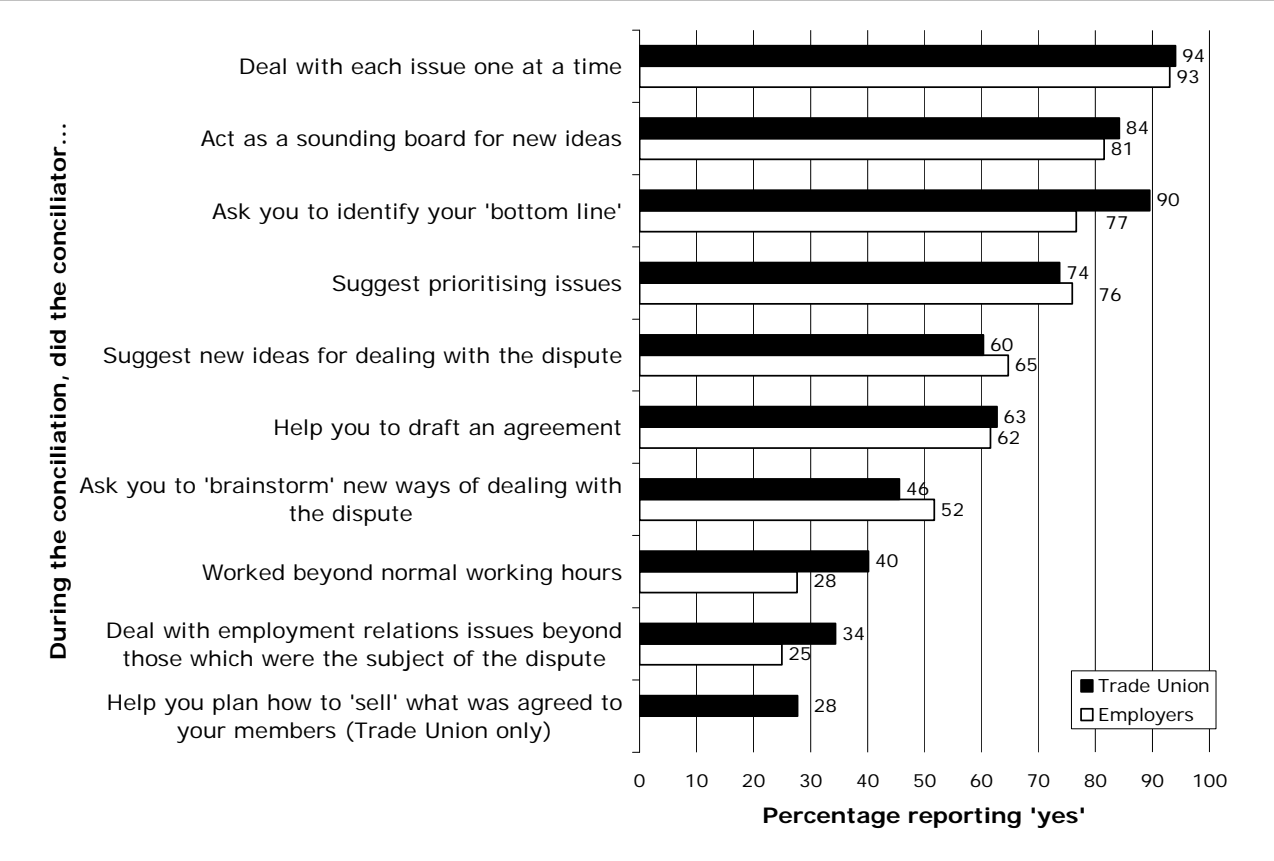
Source: Survey of Collective Conciliation Customers. Note excludes those reporting 'Don't know' or 'Not applicable,' aggregate responses by employers and trade unions given equal weight in totals.

The survey also asked respondents to report what techniques were employed by conciliators in the conciliation (by picking from a list of non-mutually exclusive options). A range of techniques are available to conciliators to help bring parties closer together. Respondents most commonly suggested that conciliators helped to adopt what might be thought of as a 'systematic' approach to dealing with the issues involved in the dispute, including dealing with issues one at a time, asking parties to identify a bottom line and prioritising issues. Smaller proportions of respondents (around two thirds) suggested conciliators took what might be called a 'pro-active' approach, such as suggesting new ideas for resolving the dispute or helping the parties draft an agreement.

Few respondents reported that conciliators undertook any activities beyond the direct issues involved in the dispute (such as helping trade unions plan how to sell agreements to their members, or introduce wider employment relations issues beyond those covered in the dispute). Fig. 4.1 (below) displays the results in full.

Responses were generally consistent across both employer and trade union respondents in aggregate. However, when looking at matched cases, the survey suggested that different techniques were employed with different parties in many disputes. For example, 64 percent of those in matched cases disagreed on whether the conciliator suggested prioritising issues, and in 55 percent of disputes, both parties disagreed about whether the conciliator worked beyond normal working hours, acted as a sounding board for new ideas, or asked respondents to brainstorm new ways of dealing with the dispute. This may indicate that conciliators employ different techniques when working with each party.

Figure 4.1 Techniques employed by conciliators



Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345) – excludes those reporting 'Don't know' or 'Not applicable'

Respondents to the survey were also asked to report whether other types of techniques were employed by conciliators as shown in Table 4.2. Over 90 percentage of respondents confirmed that conciliators had asked parties to explain the reasons behind their arguments – and over 70 percent reported that the conciliator actively supported them to consider scope for movement in their position, using 'what if' and 'if-then' scenarios to seek areas of potential agreement or help them consider what the parties might do if the other side made different moves. Other commonly used strategies included pointing out the consequences of not making progress, and giving ideas on where the other side might move from their position.

The two parties seldom differed in terms of their views on the support provided by the conciliator. However, employers were more likely to report that the conciliator gave ideas on where the other side might move from and that they made the other side's point of view more acceptable, while trade unions were more likely to report that the conciliator would point out that the consequences of not reaching agreement and that conciliation would need to cease if no progress was made.

Table 4.2 During the conciliation, did the conciliator ... (% reporting 'Yes')

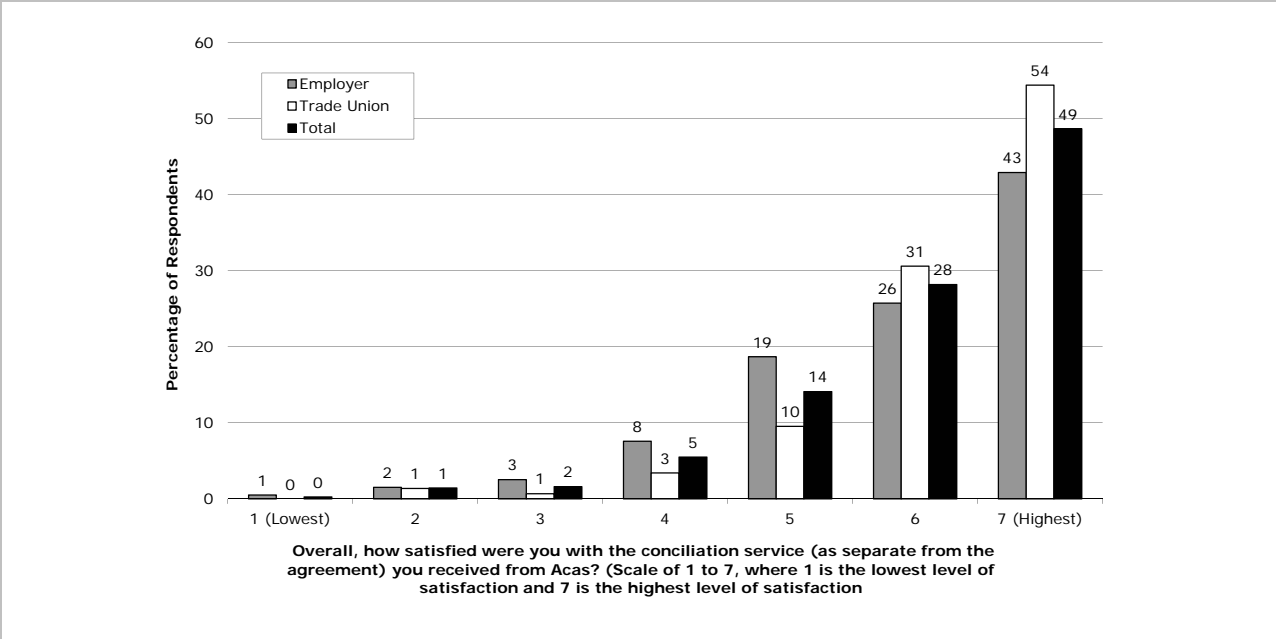
| <i>Technique</i> | <i>Employer</i> | <i>Trade Union rep.</i> | <i>Total</i> |
|--|-----------------|-------------------------|--------------|
| Ask you to explain the reasons behind your argument | 93 | 93 | 93 |
| Use 'what if' scenarios to seek areas of potential agreement | 80 | 79 | 80 |
| Use 'if-then' questions to make you consider what you would do or could offer if the other side made different moves | 78 | 74 | 76 |
| Point out the consequences of not reaching an agreement | 71 | 76 | 74 |
| Point out that conciliation would have to cease if no progress made | 70 | 75 | 73 |
| Give an idea of issues where the other side might move from their position | 78 | 61 | 70 |
| Give an assessment of the strength of your argument | 71 | 67 | 69 |
| Discuss the situation informally with you and a member of the other side away from the other people involved | 47 | 50 | 49 |
| Make the other side's point of view sound more acceptable | 44 | 37 | 40 |
| Tell you about organisations which faced similar issues | 29 | 43 | 36 |

Source: Survey of Collective Conciliation Customers - excludes 'Don't know' or 'Not applicable'

4.2 Customer satisfaction with the Collective Conciliation service

Respondents were asked to rate their overall satisfaction with the conciliation service on a scale of one to seven (where 7 is the highest level of satisfaction and 1 the lowest level of satisfaction). *Note that customer satisfaction here is with regard to the overall Collective Conciliation service rather than with the specific settlement of the case (for which see Section 5.3).* Customer satisfaction levels were high, with more than half of trade unions and over 40 percent of employer representatives giving the highest possible rating of 7. On average, employers rated the conciliation service at 5.9 out of 7 and trade unions rated it at 6.3 out of 7. Satisfaction has risen slightly from 5.5 for Employers and 6.0 for Trade Unions in 2006/07. Analysis of matched cases suggested that in 40 percent of disputes, the trade union shows higher levels of satisfaction than the associated employer, with both parties having equal satisfaction ratings in a further 41 percent of disputes.

Figure 4.2 Customer satisfaction (1 = Lowest Level of Satisfaction and 7 = Highest Level of Satisfaction)



Source: Survey of Collective Conciliation customers, 2010/11 – Base: All respondents (345) Ecorys analysis, aggregate responses of trade unions and employers given equal weight in totals

Respondents were also asked to rate of quality of conciliator skill on a scale of 1 to 5 (where 1 was very poor, and 5 was very good). Users tended to give high ratings across all conciliator skills, with listening skills given the highest satisfaction rate of 4.7 out of 5, and helping to understand the other side’s point of view the lowest (at 4.2 for employers, and 4.3 for trade unions). Customer ratings of conciliator skills were closely aligned with those given as part of the 2006/07 evaluation.

Trade union respondents consistently rated conciliators skills more highly than employers, and this is also reflected in analysis of matched cases. Trade unions reps were particularly likely to rate conciliators skills higher than the employer with respect to their skills in explaining relevant employment law (47 percent of cases), time management (45 percent), and presenting issues in a neutral language (37 percent). Both parties were most likely to give the same rating to conciliator skills in terms ‘listening to you’ (61 percent of cases), remaining impartial (59 percent), and establishing a rapport (56 percent). There was no area in which a higher proportion of employers gave a higher rating to skills than did trade union reps.

Table 4.3 Average ratings of conciliator skills (1 = Very poor and 5 = Very good)

| <i>Conciliator qualities</i> | <i>Organisation Type</i> | | <i>Total</i> |
|---|--------------------------|--------------------|--------------|
| | Employer | Trade Union | |
| Listening to you * | 4.64 | 4.79 | 4.72 |
| Establishing a rapport with you * | 4.54 | 4.77 | 4.66 |
| Remaining impartial * | 4.54 | 4.73 | 4.64 |
| Presenting issues in neutral language * | 4.44 | 4.66 | 4.55 |
| Understanding your point of view * | 4.42 | 4.64 | 4.53 |
| Time management | 4.35 | 4.52 | 4.44 |
| Calming the situation | 4.34 | 4.52 | 4.43 |
| Explaining relevant employment law * | 4.26 | 4.52 | 4.39 |
| Helping you to identify areas of agreement/disagreement * | 4.25 | 4.50 | 4.38 |
| Helping you to understand the management's point of view (Trade Union only) | - | 4.33 | 4.33 |
| Helping you to understand the employee representatives' point of view (Employer only) | 4.22 | - | 4.22 |

*Source: Survey of Collective Conciliation Customers, Base: All Respondents (345). * indicates differences between Employers and Trade Unions are statistically significant, aggregate responses of trade unions and employers given equal weight in totals*

Respondents were also asked to report how far they agreed with various statements about the conciliator's behaviour (again on a scale of 1 to 5, where 1 was strongly disagree and 5 was strongly agree). As evident from Table 4.4 (below), users of collective conciliation most strongly agreed that their conciliator was trustworthy, and had followed through on anything they promised to do. There was less strong agreement that conciliators had been 'pro-active in seeking agreement' and had been available when needed outside the conciliation meetings – although even here, average agreement scores for both parties exceeded 4 (with 5 being the maximum). Additionally, the survey suggested that conciliators took an impartial perspective, with 35 percent strongly disagreeing that the conciliator was on their side (and a further 30 percent neither agreeing nor disagreeing with this statement).

Analysis of matched cases suggested that in 80 percent of disputes, both parties agreed on the rating of the conciliator's trustworthiness, and in 68 percent of cases agreed on their rating of how far the conciliator followed through on anything they promised to do. However, only in 12 percent of disputes did the two parties agree on the extent to which the conciliator had been 'on their side', with 58 percent of trade union reps agreeing with this more strongly than employers *in the same disputes*.

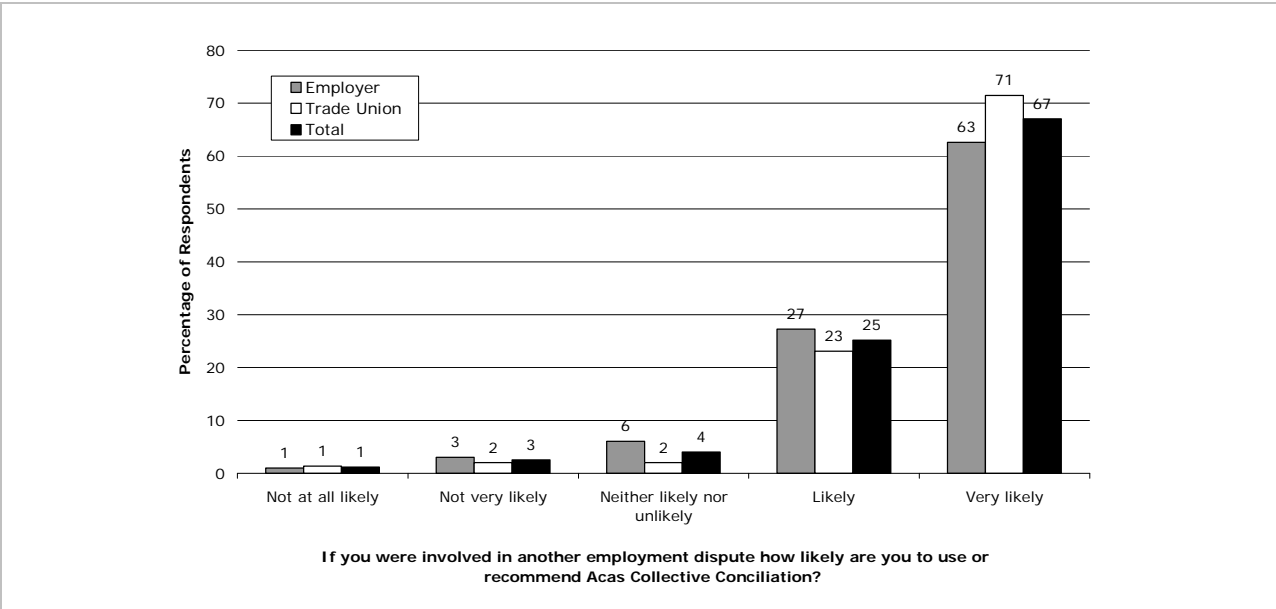
Table 4.4 Average ratings – conciliator behaviours (1 = Strongly Disagree, 5 = Strongly Agree)

| Conciliator qualities | Organisation Type | | Total |
|---|-------------------|-------------|-------|
| | Employer | Trade Union | |
| Was trustworthy * | 4.77 | 4.90 | 4.84 |
| Followed through on anything they promised to do * | 4.70 | 4.86 | 4.78 |
| Was pro-active in seeking an agreement * | 4.46 | 4.65 | 4.56 |
| Was available when needed outside the conciliation meetings * | 4.41 | 4.64 | 4.53 |
| Was on your side | 2.63 | 2.53 | 2.58 |

Source: Survey of Collective Conciliation Customers, Base: All Respondents (345) * indicates differences between Employers and Trade Unions are statistically significant, aggregate responses of trade union reps and employers given equal weight in totals

Respondents were asked to report whether they would be likely to use the service again, or would recommend it to others, in the event of another collective employment dispute. Overall, 92% of users said they were either likely or very likely to do so: two thirds (67 percent) of respondents reported that they would be ‘very likely’ to use or recommend Acas Collective Conciliation if they were involved in another employment dispute, with a further quarter (25 percent) stating that they would be ‘likely’ to do so. This mirrors results from the 2006/07 evaluation of Collective Conciliation.

Figure 4.3 Likelihood of using or recommending Acas again in the event of another employment dispute



Source: Survey of Collective Conciliation customers, 2010/11, Base: All Respondents (345) – Ecorys analysis, aggregate responses of trade union reps and employers given equal weight in totals

4.3 Drivers of customer satisfaction

A core objective of the research was to identify the key determinants of customer satisfaction (including conciliator techniques and behaviours). Respondents to the survey reported their overall satisfaction with the Collective Conciliation service on a 1 to 7 scale – in order to explore the determinants of customer satisfaction, a statistical model¹² was developed to identify the external and internal drivers of customer satisfaction (see Annex B for a more detailed discussion for these results).

The analysis first explored the influence of external factors (such as the background of the dispute and the strategies employed before Acas became involved) in determining customer satisfaction. Statistical results indicated that, on average, voluntary sector organisations tended to show higher rates of customer satisfaction. Customer satisfaction also depended to some extent on the strategies employed by both parties before Acas was involved – those involved in cases in which publicity had been employed by either party tended to be less satisfied on average, while those involved in cases in which the issues had been escalated to higher ranked personnel tended to be more satisfied.

However, the key determinants of satisfaction related to the *outcome* of the dispute. Perhaps not surprisingly, respondents tended to be more satisfied with the service overall if a successful outcome had been achieved, if Acas conciliation had helped bring the two parties closer together, and if the dispute would ‘definitely not’ have been resolved using normal bargaining procedures in the absence of collective conciliation.

The survey asked respondents to report on 41 separate items describing and rating conciliator skills and techniques, as reported in the preceding sections. However, where respondents reported that a conciliator applied one technique in the conciliation, this was often associated with the application of another technique (and vice versa), suggesting that these 41 items can be grouped together in a small number of ‘styles’ and simplifying this evidence for the purposes of analysis. In order to develop an understanding how where different skills and techniques tended to be applied at the same time, factor analysis¹³ was employed to understand these correlations in more detail and identify the underlying structure of the survey results. The analysis identified that these 41 items could be described more simply in terms of 8 discrete dimensions (or factors) corresponding to following styles or elements of conciliator behaviour: , which identified :

- **Personal skills and behaviours** : The survey asked respondents to rate the personal qualities of conciliators across 15 dimensions on a scale of 1 to 5 (as set out in tables 4.3 and 4.4, covering a range of personal qualities from listening, developing a rapport, remaining impartial and trustworthy, availability outside meetings and technical knowledge). These responses were all highly correlated (if a respondent rated a conciliator highly on one element, they also rated them highly on other

¹² To be exact, an ordered logit model – these are regression models designed for ordered category variables – such as responses to survey questions where respondents report against a scale.

¹³ A statistical method for describing variability among correlated variables in terms of a potentially lower number of unobserved overarching variables (called ‘factors’). In this case, responses to 41 survey questions about the conciliator have been bracketed together into what are 8 discrete ‘dimensions’ (factors).

dimensions). This mirrors the results of the analogous analysis undertaken by Ipsos MORI in 2006/07 (in which these elements were broken down into 'rapport' and 'pro-activity').

- **Developing solutions:** Developing solutions emerged as a distinct type of conciliator behaviour, including exploring counterfactual scenarios with disputing parties, giving ideas of issues where the other side might compromise, asking parties to identify their bottom line, and acting as a sounding board for new ideas.
- **Explaining rules:** Explaining how conciliation worked was a widespread behaviour amongst conciliators, and was largely independent of other styles.
- **Evaluation of bargaining positions:** The analysis suggested that evaluation of negotiating positions was a typical pattern of conciliator behaviour. Here, conciliators would give an assessment of parties' negotiating positions and point out the consequences of failing to reach an agreement, often while suggesting new ideas for dealing with the dispute.
- **Going further:** Some conciliators went beyond the normal conciliation process, working outside normal working hours, introducing industrial relations issues beyond those in the dispute, and discussing the situation informally outside of formal processes.
- **Understanding bargaining positions:** This aspect of conciliator behaviour included asking both parties to explain their positions and the reasons behind their arguments.
- **Systematic approach:** Conciliators were often reported to take a systematic approach to the conciliation, setting out clear ground rules and dealing with issues one at a time.
- **On your side:** Appearing on the respondent's side emerged as a separate class of behaviour (mirroring Ipsos MORI's analysis of the 2006/07 survey).

Extending initial models to incorporate these styles of conciliator behaviour indicated that the behaviour of the conciliator has a strong influence over customer satisfaction with the Collective Conciliation service. The personal skills of the conciliator were found to have the strongest positive influence over customer satisfaction. However, the ability of the conciliator to help develop solutions, to go beyond normal conciliation processes, and adopting a systematic approach were all found to have a positive influence over customer satisfaction. Respondents tended to show lower rates of customer satisfaction if the conciliator was felt to be on their side.

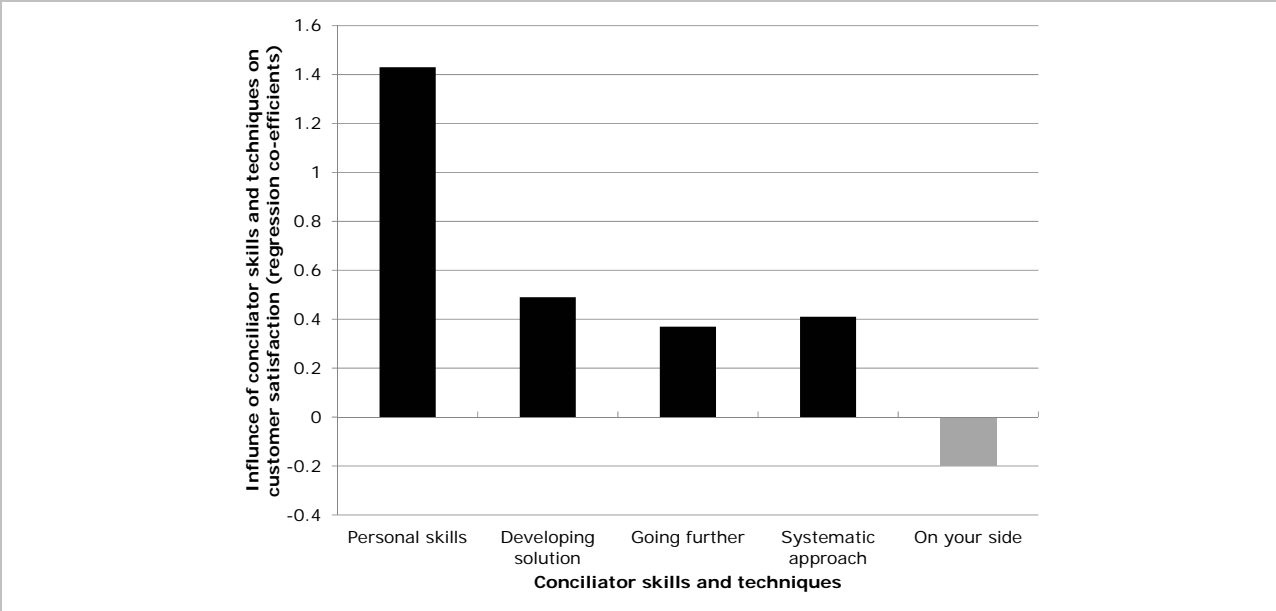
The relative size of the influence of these different conciliator styles are set out in the Figure 4.4, which provide the regression co-efficient from the analysis (i.e. only those 5 dimensions that were found to have a statistically significant influence over customer satisfaction). The size of the regression co-efficient represent how strongly each conciliator style influences the odds that a respondent would give a higher customer satisfaction score.

The figures illustrates that the customer’s assessment of the personal skills of the conciliator has over three times as strong an influence over customer satisfaction as the other important dimensions identified.

Additionally, these results suggest that the behaviour of conciliators are largely aligned with those practices likely to increase customer satisfaction. Respondents almost universally rated the personal skills of their conciliators highly, suggesting there may not be wide scope for raising customer satisfaction to a substantial degree. Conciliators also almost universally adopted what might called a systematic approach (setting out ground rules, dealing with one issue at a time) and high proportions reported conciliators had a solutions focused approach, such as using counterfactual scenarios to help parties formulate their negotiation strategies. However, there may be scope to improve satisfaction by increasing the extent to which conciliators ‘go further’ – with just 40 percent of respondents reporting the conciliator was prepared to work beyond normal office hours for example.

These results are broadly in line with the results of a comparable analysis undertaken by Ipsos MORI in 2006/07, which (albeit using different labels) found that pro-activity (one dimension of conciliators’ personal skills), rapport (another factor combining several other dimensions of conciliators’ personal skills), availability outside meetings, and neutrality as key behaviours having a positive influence over customer satisfaction. The analysis also found the outcome of the conciliation had a strong influence over customer satisfaction.

Figure 4.4 Relative influence of techniques on customer satisfaction



Source: Survey of Collective Conciliation customers, 2010/11 – Ecorys analysis

4.4 Summary

- Conciliators employed a range of techniques and skills in the conciliation process. A consistent service was received by users in terms of the conciliators' approach to explaining how the process worked, setting ground rules for conciliation, and allowing both parties to explain their position and their reasoning. Additionally, high proportions of users reported that the conciliator adopted a systematic approach, dealing with one issue at a time.
- The service received varied more in terms of the styles of conciliators. Respondents most commonly suggested that conciliators helped to adopt a what might be thought of as a 'systematic' approach to dealing with the issues involved in the dispute, including dealing with issues one at a time, asking parties to identify a bottom line and prioritising issues. Smaller proportions of respondents (around two thirds) suggested conciliators took what might be called a 'pro-active' approach, such as suggesting new ideas for resolving the dispute or helping the parties draft an agreement.
- The survey also suggested that conciliators tended not to focus on issues outside of the focus of the dispute. Only a small share of respondents reported that the conciliator brought in wider issues relating to employment relations or experiences from other similar disputes, or helping trade unions plan selling any agreement to their members.
- The evidence suggests that, in general, customers display high satisfaction with the Collective Conciliation service. Overall satisfaction rates were high, with 49 percent of respondents giving maximum ratings for the overall conciliation service they received with an average satisfaction rating of 5.9 out of 7 amongst employers and 6.3 amongst trade unions (and there was some evidence that overall satisfaction rates had improved since the 2006/07 evaluation, rising from 5.5 amongst employers, and 6.0 amongst trade unions). Additionally, users of the service gave high satisfaction rates across all aspects of conciliator skills and behaviour (with average satisfaction rates all above 4 on a scale of 1 to 5, with 5 meaning very good), with results mirroring findings from the 2006/07 evaluation.
- Detailed analysis suggested that while a key driver of customer satisfaction was the extent to which all key issues in the dispute were resolved following conciliation, the behaviour and skills of the conciliator also had an influence. The personal skills of the conciliator (the respondents' rating of the conciliator in terms of listening skills, building rapport, remaining impartial, and so forth) were the most important influence over customer satisfaction. However, adopting solutions-focused approaches (such as exploring counterfactual solutions), going further in terms of working outside normal working hours and introducing wider employment relations issues, and adopting a systematic approach (i.e. setting out clear ground rules and dealing with issues one at a time) were all associated with higher rates of customer satisfaction. However, the results also illustrated the importance of impartiality – respondents who felt the conciliator were on their side tended to show lower rates of customer satisfaction.

- The results suggested conciliators largely adopt those behaviours that increase customer satisfaction. In particular, respondent almost universally rated the personal skills of their conciliators highly (which had the highest influence over customer satisfaction) and scope for raising customer satisfaction to a substantial degree may be limited. However, there may be scope to increase satisfaction at the margins by increasing the extent to which conciliators 'go further' – with just 40 percent of respondents reporting the conciliator was prepared to work beyond normal office hours for example.

5.0 Outcomes

This section explores the outcomes of Acas Collective Conciliation services in terms of helping parties to reach a resolution, and the effects of settlements agreed on workplace performance.

5.1 Outcomes of the dispute resolution process

The primary objective of Collective Conciliation is to help disputing parties reach an agreement that settles the key issues involved in the dispute. The survey of Acas Collective Conciliation customers asked respondents to report their views on the outcome of the dispute. In around two thirds of disputes (63 percent), conciliation ended with all or most of the key issues being settled (see Table 5.1 overleaf). In a further 16 percent of cases some progress was made, while 2 percent went on to arbitration. A successful outcome is defined by Acas as a dispute in which all issues were settled, progress was made, or progressed to arbitration, giving an overall success rate of 81 percent – exceeding Acas' performance target to reach a successful outcome in 80 percent of disputes¹⁴.

Analysis of matched cases – that is, where *both* disputing parties were surveyed – suggests some disagreement over the ultimate perceived outcome of conciliation, with the same response provided in 61 percent of cases. Looking only at cases where respondents agreed on the overall outcome of conciliation, one finds that successful outcomes were achieved in 91 percent of (matched) cases. This broadly reflects the findings of the 2006/07 evaluation, and suggests an increase in the proportion of cases in which all or most issues in disputes were settled (arguably an improvement in service effectiveness).

5.2 Unresolved disputes

The most commonly given reasons for not reaching a settlement related to how far parties were prepared to move position. 51 percent of trade union representatives and 36 percent of employers reported that failure to reach a settlement was due to the other side not shifting position. In a further third of disputes, respondents reported that despite some movements in position the gap between the two parties remained too great. There was also some indication of desire amongst trade unions for a third party to make a judgement on the situation, with 7 percent reporting that conciliation was only a step to arbitration, and 9 percent reporting they wanted someone to judge or decide the situation for them.

There was little indication that the Acas conciliator was responsible for failure to reach settlement. Just two percent of respondents reported that the conciliator was not good enough, and 90 percent of respondents felt that the conciliator could *not* have done more to bring about a settlement. There were insufficient numbers of matched cases involving unresolved disputes to permit more detailed analysis.

¹⁴ Acas monitoring information for the disputes covered in the sample suggests a slightly higher successful outcome rate of close to 95 percent.

Table 5.1 As you left the conciliation, which of the following best describes the outcome? (Percentage of responses)

| <i>Outcome</i> | <i>All/ most of the key issues in this dispute were settled</i> | <i>Some progress was made</i> | <i>Went on to arbitration</i> | <i>Successful outcomes</i> | <i>No agreement reached and no progress or referral made</i> | <i>Other</i> | <i>Total</i> |
|-------------------------------------|---|-------------------------------|-------------------------------|----------------------------|--|--------------|--------------|
| Employer | 65 | 15 | 2 | 82 | 16 | 2 | 100 |
| Trade Union | 61 | 18 | 2 | 81 | 18 | 1 | 100 |
| Total | 63 | 16 | 2 | 81 | 17 | 2 | 100 |
| Matched cases (in agreement) | 87 | 2 | 2 | 91 | 9 | 0 | 100 |
| 2006/07 evaluation | 64 | 22 | 4 | 90 | 10 | 0 | 100 |

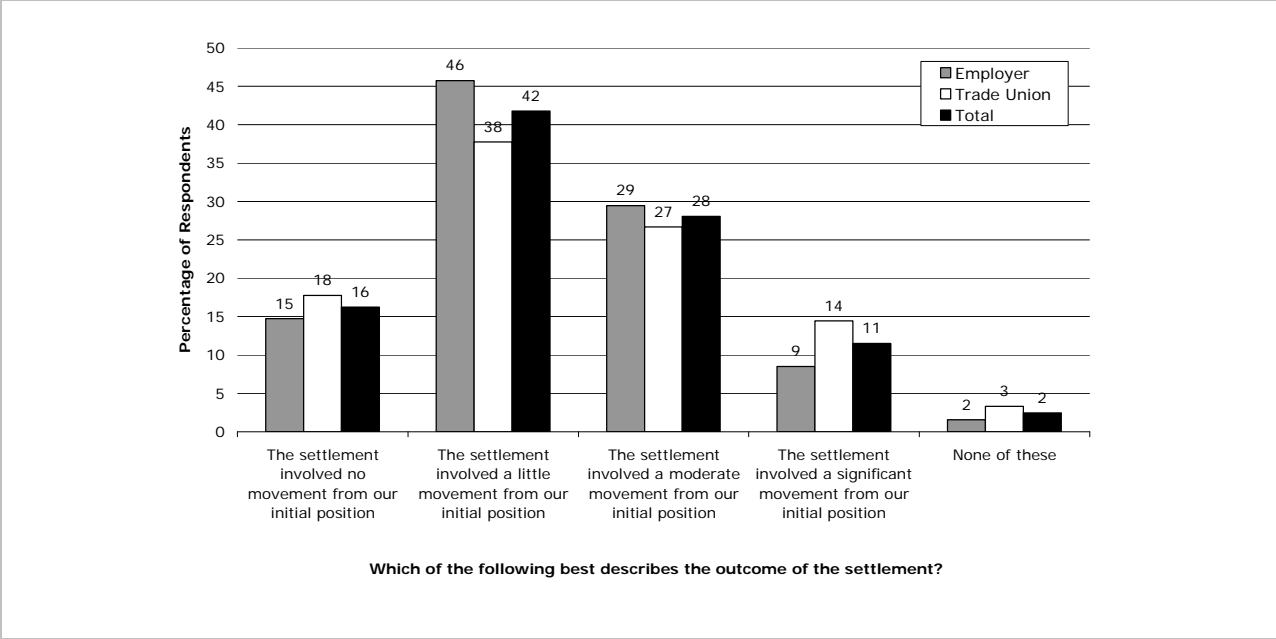
Source: Survey of Collective Conciliation Customers – results from 2006/07 evaluation based on cases where both parties in the dispute were in agreement on the outcome of the dispute, aggregate responses of employers and trade union reps given equal weight in totals. Figures may not sum due to rounding

5.3 Outcome of settlements

The survey results suggested that where a settlement *had* been reached, in most cases respondents felt they had moved at least a little distance from their initial position. 42 percent of respondents felt that the settlement involved a little movement from their initial position, with 28 percent suggesting a moderate movement. Few respondents felt that they had either made significant concessions (11 percent) or had not moved from their initial position (16 percent).

Analysis of matched cases suggested that where a settlement was agreed, both parties felt that they had made at least some movement from their initial position in 82 percent of these disputes. Around 34 percent of trade union respondents felt they had moved further from their initial position than the opposing party, and the reverse was the case in 26 percent of cases.

Figure 5.1 Movements from initial position



Source: Survey of Collective Conciliation customers, 2010/11. Base – respondents where disputes were successfully resolved (213), aggregate responses of employers and trade union reps given equal weight in totals

Although users of the Collective Conciliation service felt that settlements involved some movement from their initial position, both employers and trade unions were generally satisfied with the settlement. Respondents were asked to rate their level of satisfaction on a scale of one to seven, with a third (33 percent) of respondents gave the highest rating of seven. *Note that customer satisfaction here is with regard to the specific settlement of the case rather than the service as a whole (for which see Section 3.2).* Average satisfaction with the outcome of settlements (out of 7) was 5.59 for employers and 5.93 for trade union representatives (although these differences were not statistically significant). Satisfaction with the outcomes of settlements also rose from 4.88 for employers and 4.99 for Trade Union representatives in 2006/07.

Although differences in average satisfaction ratings were not statistically significant, analysis of matched cases suggests that in 46 percent of disputes, the trade union was more satisfied with the settlement outcome than was the employer. Both parties were equally satisfied in 26 percent of cases, with employers being more satisfied than the trade union representative in a further 26 percent of cases.

Table 5.2 Average satisfaction with settlement outcomes (maximum 7)

| Customer group | 2010/11 | 2006/07 |
|----------------|---------|---------|
| Employers | 5.59 | 4.88 |
| Trade Unions | 5.93 | 4.99 |

Source: Survey of Collective Conciliation Customers, Base: respondents where disputes were successfully resolved (345). Differences between Employers and Trade Unions are not statistically significant in 2010/11. Average satisfaction based on responses to the question: ‘How satisfied were you with this outcome on a scale of 1 to 7’

5.4 Implementation of agreements

Respondents were asked to report whether agreements were implemented when they were taken back to the workplace. The majority of respondents (90 percent of employers and 91 percent of trade unions) confirmed that settlements were implemented in full when they were taken back to the organisations. In a further 8 percent of cases the agreement was implemented in part. Analysis of matched cases indicates that in 95 percent of cases, both parties agreed on whether the agreement was implemented.

In addition, respondents were asked to indicate whether the agreement helped to resolve the underlying issues associated with the dispute. 70 percent of both employers and trade union reps reported that the agreement resolved the dispute in the long term and 25 percent reported that the agreement resolved the dispute in the short term. These findings are closely aligned with the results of the 2006/07 evaluation, and analysis of matched cases indicated that in 72 percent of disputes both parties agreed on the extent to which agreement helped resolves the dispute.

In the small number of cases where settlements were not implemented, or where the agreement did not solve the underlying causes of disputes, respondents were asked to report how the dispute was eventually resolved. 39 percent of these respondents reported that they had further meetings without Acas and eventually reached agreement, 46 percent reported that management imposed a settlement.

5.5 Longer term outcomes of conciliation

Respondents were asked to assess how far Acas Collective Conciliation had led to a range of possible improvements in workplace performance. As shown in Table 5.3, conciliation was seen to have been most effective in improving industrial relations and the ability of organisations to resolve disputes internally. 63 percent of respondents reported their organisation was now able to deal with disputes more effectively, 60 percent reported communication between management and workers had improved, and 55 percent reported that employment relations had improved.

In analysis of matched cases, both parties to a dispute were most likely to agree that the conciliation helped the organisation to deal with disputes more effectively (50 percent of disputes), improve communication between managers and employees (49 percent), and improve employment relations with the organisation (44 percent).

These results suggest that conciliation may have had an impact beyond resolving the immediate causes of disputes. These types of improvement could potentially lead to wider improvements in business performance, speeding the resolution of disputes in the future, and helping to boost employee morale and motivation. While these effects could potentially translate into more tangible impacts on business performance such as improved productivity and profitability at a later stage, few employers felt that these types of effect had been realised at the time of the survey.

Table 5.3 As a result of Acas Collective Conciliation were there any improvements in terms of...? (Percentage reporting 'Yes')

| <i>Reason</i> | <i>Organisation Type</i> | | <i>Total</i> |
|---|--------------------------|--------------------|--------------|
| | Employer | Trade Union | |
| The organisation's ability to deal with disputes more effectively | 63 | 62 | 63 |
| Communication between management and workers | 55 | 64 | 60 |
| Employment relations within the organisation | 52 | 58 | 55 |
| The organisation's ability to identify potential disputes at an earlier stage | 48 | 57 | 53 |
| Trust between management and workers | 51 | 42 | 47 |
| The organisation's ability to deal with change | 47 | 48 | 47 |
| HR procedures and practices | 42 | 46 | 44 |
| Employee morale and motivation | 46 | 41 | 43 |
| Productivity (<i>Employers only</i>) | 28 | - | 28 |
| Profitability (<i>Employers only</i>) | 24 | - | 24 |
| Staff retention (<i>Employers only</i>) | 14 | - | 14 |
| Staff absence (<i>Employers only</i>) | 11 | - | 11 |

Source: Survey of Collective Conciliation Customers – base: All respondents (345), aggregate responses of employers and trade unions given equal weight in totals

5.6 Benefits of involving Acas at an earlier stage

The survey also explored how far users of Collective Conciliation felt that there might be benefits associated with involving Acas at an earlier stage of negotiations. The majority of respondents felt that Acas involvement at earlier stage would not have helped, with around 20 percent reporting that earlier involvement would possibly have helped, and 14 percent that earlier involvement would definitely have helped. There were no statistically significant differences between the views of employers and trade union reps, although the survey and analysis of matched cases suggested that trade unions were more likely than employers to report that it would have been helpful to involve Acas at an earlier stage.

When asked to state why they had not asked for Acas involvement at an earlier stage, nearly half (48 percent) of all respondents reported that they had not exhausted their dispute resolution procedures or did not think that the dispute had progressed far enough. A further 10 percent reported that they felt the situation was not serious enough or that there was no threat of industrial action. No other response was given on a consistent basis.

5.7 Drivers of successful outcomes

A statistical model¹⁵ was implemented to explore the determinants of successful case outcomes. In this analysis, a successful outcome was defined as a case where *all* key issues in the dispute were settled. This is a narrower definition of success than employed by Acas. However, since a high proportion (over 80 percent) of respondents reported a successful outcome on the basis of the definition used by Acas, there were limits to the extent to which modelling could otherwise identify influences on the probability of a successful outcome being achieved; hence the need for a narrower definition of 'success'.

The analysis first explored the extent to which external influences (the background and characteristics of disputes, and the characteristics of the organisation involved in the dispute) had a significant influence over whether a successful outcome was achieved. This analysis suggested that such external influences had a limited influence over the probability that all key issues in a dispute were settled – with the favoured model explaining just 11 percent in the overall variation in case outcomes.

However, the analysis suggested that disputes related to working practices are less likely to be resolved. Disputes where respondents reported that the main reason they had decided to use Acas was that Acas was written into dispute resolution procedures were also less likely to be resolved. Disputes were *more* likely to be resolved where the dispute related to multiple (rather than single) workplaces, and where the main reason for seeking third party support was to avoid industrial action. Additionally, the key issues involved in disputes were more likely to be resolved where relationships between workers and management were 'very good' and where dispute numbers were low (involving 1 to 4 employees).

This analysis was extended to explore the influence of conciliator techniques (as described above) on the probability a successful outcome was achieved. This almost doubled the proportion of the variance in case outcomes accounted for by the model (rising to 19 percent), suggesting that the behaviour of the conciliator had around an 8 percent influence over the eventual outcome of the dispute. Three dimensions of conciliator behaviour appeared to have a significant influence on the probability of a successful outcome:

- **Personal skills and behaviours** – the most important influence on the probability that all key issues in a dispute were settled were the personal skills of the conciliator (as assessed by the respondent, covering the dimensions set out in tables 4.3 and 4.4 and including a range of personal qualities from listening, developing a rapport, remaining impartial and trustworthy, availability outside meetings and technical knowledge). Personal skills accounted for 60 percent of the influence of the conciliator over successful case outcomes.
- **Developing solutions** – the extent to which conciliator supported disputing parties to develop solutions was a secondary influence over successful case outcomes,

¹⁵ Again, a logit model i.e. a regression model designed to assess the impact of a range of independent variables on the probability that a particular event or outcome occurs.

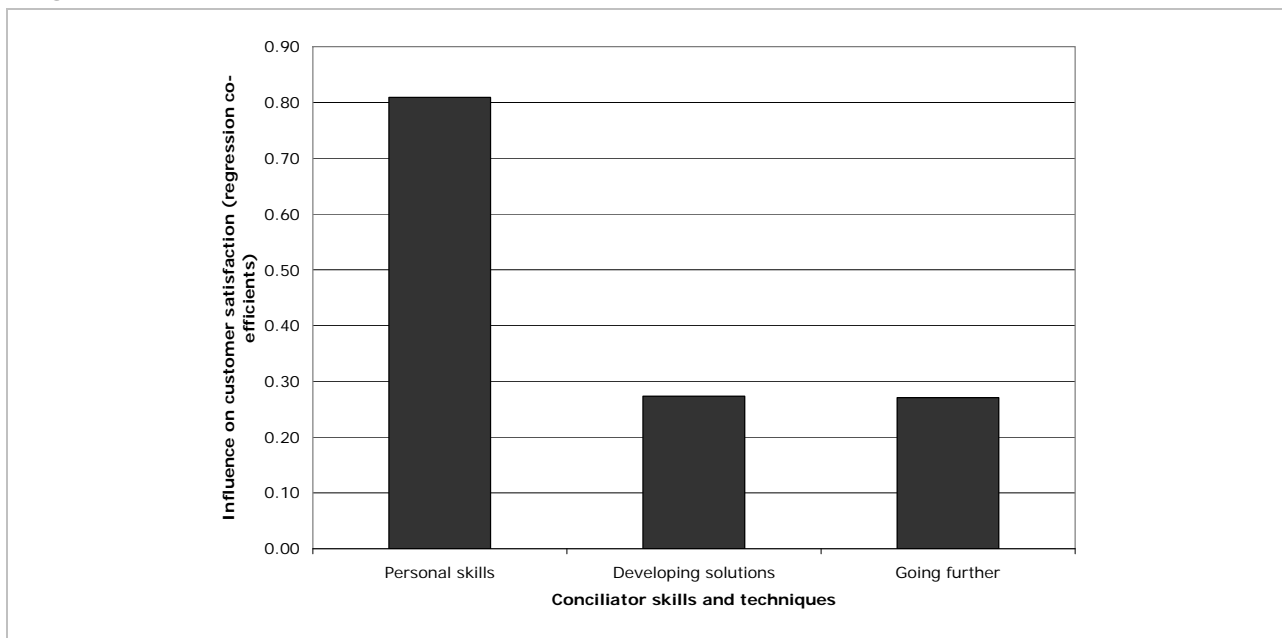
accounting for 20 percent of the influence of the conciliator over successful case outcomes.

- **Going further** – going beyond the normal conciliation process also had a positive influence over the probability that positive case outcomes were achieved, again accounting for 20 percent of the influence of the conciliator over successful case outcomes.

These findings align with a comparable analysis undertaken by Ipsos MORI as part of the 2006/07 evaluation. The previous study found that displaying a pro-active attitude had the strongest influence over customer satisfaction (so-called 'pro-activity' being one dimension of personal skills identified through this analysis), while being available outside of meetings, working beyond normal working hours, and dealing with employment relations issues outside of the dispute all have a positive influence.

The chart below illustrates the relative strength of these conciliator skills on the probability that a successful outcome is reached. Again, the personal skills of conciliators had around three times as strong an effect on the probability that a successful outcome was achieved. As described in the previous chapter, conciliators tended to adopt the most important behaviours that influence the likelihood of successful outcomes – with respondents almost universally rating the skills of their conciliator highly. A solution focused style (such as using counter-factual scenarios to help parties to think through their negotiation strategy) was also widely adopted by conciliators. However, some improvement could potentially be made by 'going further' – for example, just 40 percent of trade unions and 28 percent of employers reported the conciliator was will to work beyond normal office hours.

Figure 5.2 Relative influence of techniques on successful outcomes



Source: Survey of Collective Conciliation customers, 2010/11 – Ecorys analysis

5.8 Summary

- The survey results suggested that there was a successful outcome in 81 percent of collective conciliation cases; furthermore in 64 percent of cases respondents reported that *all* issues in the dispute were settled following conciliation. Analysis of cases where both disputing parties were surveyed suggested that there was some disagreement on the overall outcome of the case. Focusing only on those 'matched' cases¹⁶ where respondents actually agreed on the outcome, the success rate rises to 91 percent (closely aligning with findings of the 2006/07 evaluation)¹⁷.
- Where issues remained unresolved following conciliation, respondents tended to suggest this was caused either by the other side refusing to move position (given by 51 percent of trade unions and 36 percent of employers), or that despite some movement the gap between the two parties remained too great (given by a further third of respondents). There was no suggestion that the conciliator could have done more to broker a solution to the dispute in the majority of cases.
- In the majority of cases (90 percent), agreed settlements were implemented in full following conciliation, and just two percent reported that agreements were not implemented at all. Customer satisfaction with agreed settlements was high (with an average satisfaction rating of 5.6 out of 7 amongst employers and 5.9 amongst trade unions), and showed a marked improvement on the results of the 2006/07 evaluation (4.8 amongst employers and 4.9 amongst trade unions).
- The survey suggested that the disputes resulted in a wide range of longer term outcomes, most widespread of which were improvements in employment relations, including organisational ability to deal with disputes (reported by 63 percent of respondents), and communication within the organisation (60 percent of respondents). While these effects may in the long term result in improvements in staff motivation, morale and productivity, smaller shares of employers reported that the conciliation had a tangible impact on business performance (for example, 28 percent of employers reported that conciliation had a noticeable effect on productivity), as would be expected given that these were not the primary aims of the Collective Conciliation Service.
- Close to 35 percent of respondents felt that it may have been beneficial to involve Acas at an earlier stage. When asked to state why they had not asked for Acas involvement at an earlier stage, nearly half reported they had not exhausted their dispute resolution procedures or did not think that the dispute had progressed far enough (negligible proportions of respondents reported they were unaware of Acas).
- Detailed analysis exploring the determinants of successful outcomes (i.e. those cases where all key issues involved were resolved) suggested that external factors relating to the dispute accounted for around 10 percent of variation in outcomes achieved.

¹⁶ i.e. cases where the survey covered both parties involved in disputes.

¹⁷ Acas monitoring data for the survey sample suggested a slightly higher success rate of 95 percent.

Disputes relating to working practices were less likely to be fully resolved, while the strength of relationships between workers and management also had an influence. The approach adopted by the conciliator was also influential, with the quality of the conciliators' personal skills, the extent to which they supported parties develop solutions, and going further in terms of working outside normal working hours and introducing wider employment relations issues were all associated with a higher probability that all key issues in the dispute would be resolved.

- Conciliators tended to adopt the most important behaviours that influence the likelihood of successful outcomes - respondents almost universally rating the skills of their conciliator highly. However, marginal improvements could potentially be made by 'going further' – for example, just 40 percent of trade unions and 28 percent of employers reported the conciliator was will to work beyond normal office hours.

6.0 Impacts

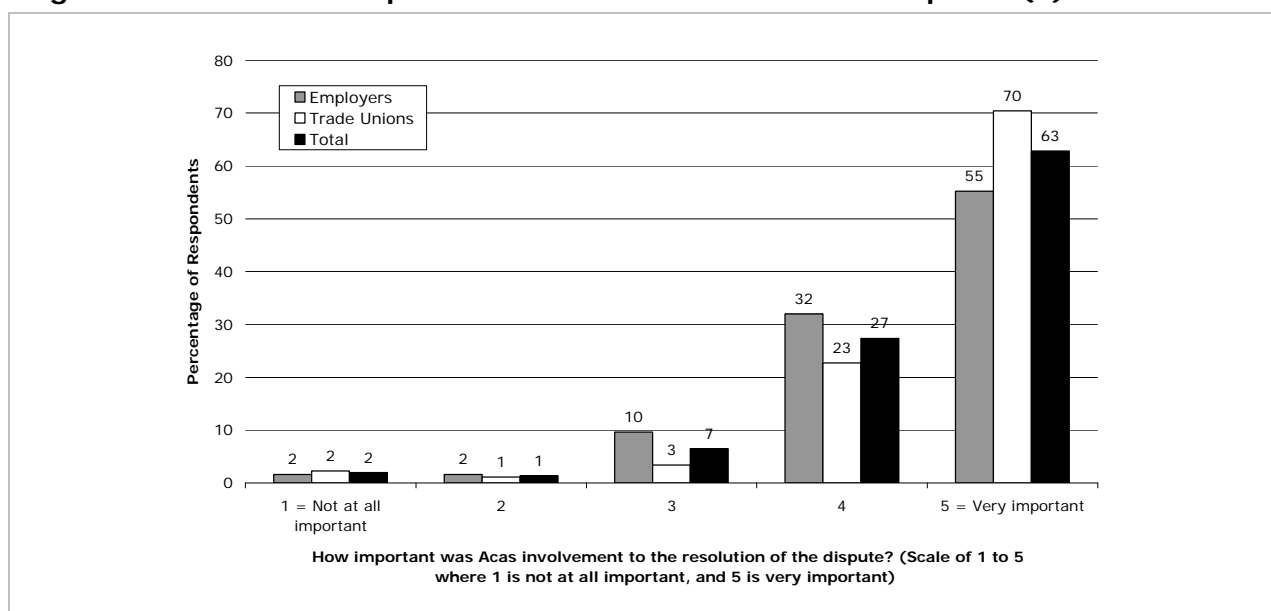
This section focuses on the wider impacts of the Acas Collective Conciliation Service, including the impacts of conciliation on bringing disputes to a resolution more rapidly, helping avert industrial action, and in terms of facilitating the implementation of changes to working practices.

6.1 Impact of Acas on the dispute resolution process

Respondents were asked to report how important Acas had been to the resolution of their disputes, with responses suggesting that in general Acas *was* influential. Overall, 63 percent of respondents reported that Acas involvement was 'very important' to the resolution of the dispute, and a further 27 percent reported that it was 'important.' Trade unions tended to indicate that Acas' role in bringing disputes to a resolution was more important than employers, although these differences were not statistically significant (see Figure 6.1 below)

This pattern was shown in analysis of matched cases. Of those disputes where both sides were in agreement that all issues had been resolved, both parties agreed on the importance of Acas in bringing the dispute to a resolution in 65 percent of cases. In a further 29 percent of these cases, the trade union rep judged the role of Acas as having been more important than was said to have been the case by the corresponding employer.

Figure 6.1 Perceived importance of Acas in resolution of disputes (1)

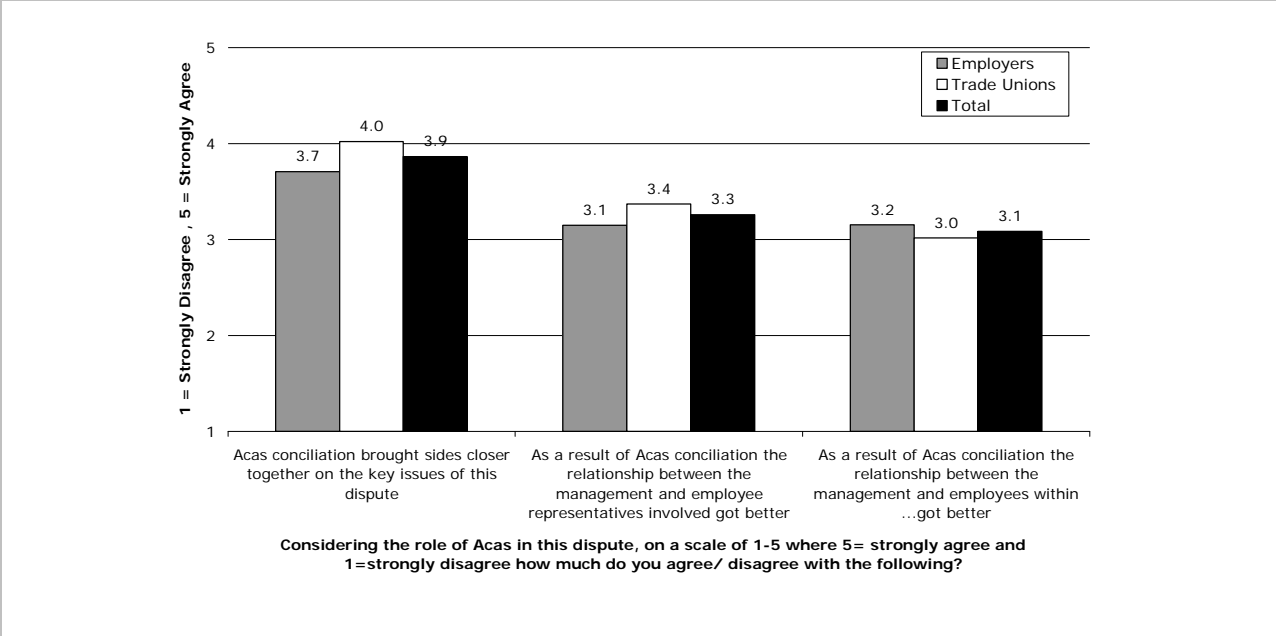


Source: Survey of Collective Conciliation customers, 2010/11. Base – All respondents where disputes were successfully resolved (213), aggregate responses of employers and trade unions given equal weight in totals

Respondents to the survey were also asked to report how strongly Acas influenced the dispute in a variety of more specific ways (see Figure 6.2). Here, the survey suggests that

one the key benefits of Acas Conciliation is in terms of bringing the two sides closer together on the key issues involved in the dispute (with over 70 percent reporting that they at least agreed with this statement). However, benefits in terms of strengthening the relationships between the negotiating parties or between management and employees were less widely reported.

Figure 6.2 Perceived importance of Acas in resolution of disputes (2)

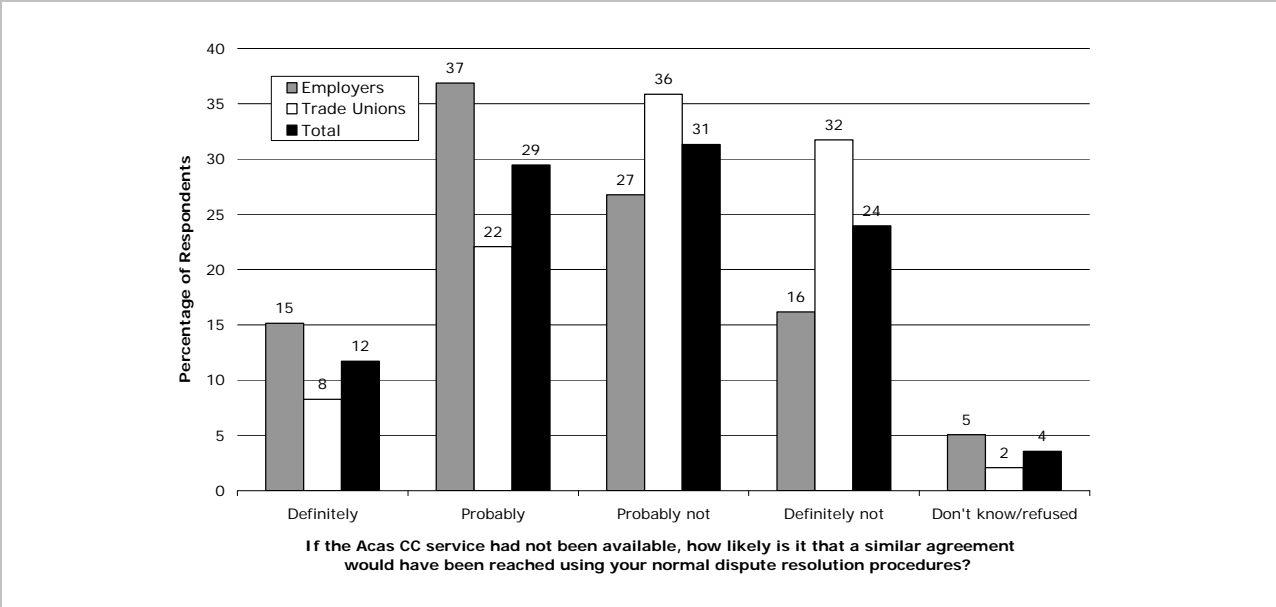


Source: Survey of Collective Conciliation customers, 2010/11. Base – respondents where disputes were successfully resolved (213), aggregate responses of employers and trade unions given equal weight in totals

Finally, respondents were asked to report whether they felt that disputes would have otherwise been resolved using normal bargaining procedures (that is, in lieu of Acas). Over 50 percent of respondents reaching a settlement reported that they would ‘definitely not’ or ‘probably not’ have been able to reach a similar resolution to the dispute if the Acas Collective Conciliation service was not available.

Employers tended to report a weaker impact on the dispute resolution process than Trade Union representatives (see Figure 6.3), and these differences were statistically significant. In matched cases, both parties agreed on the probability that a similar agreement would have been reached in the absence of Acas conciliation in 28 percent of cases. In 45 percent of matched cases, the trade union rep felt that the two parties would have been less likely to reach a resolution than was judged to have been the case by the corresponding employer (with the reverse the case in 25 percent of matched cases).

Figure 6.3 Extent to which disputes would have been resolved using normal bargaining processes using normal bargaining procedures?



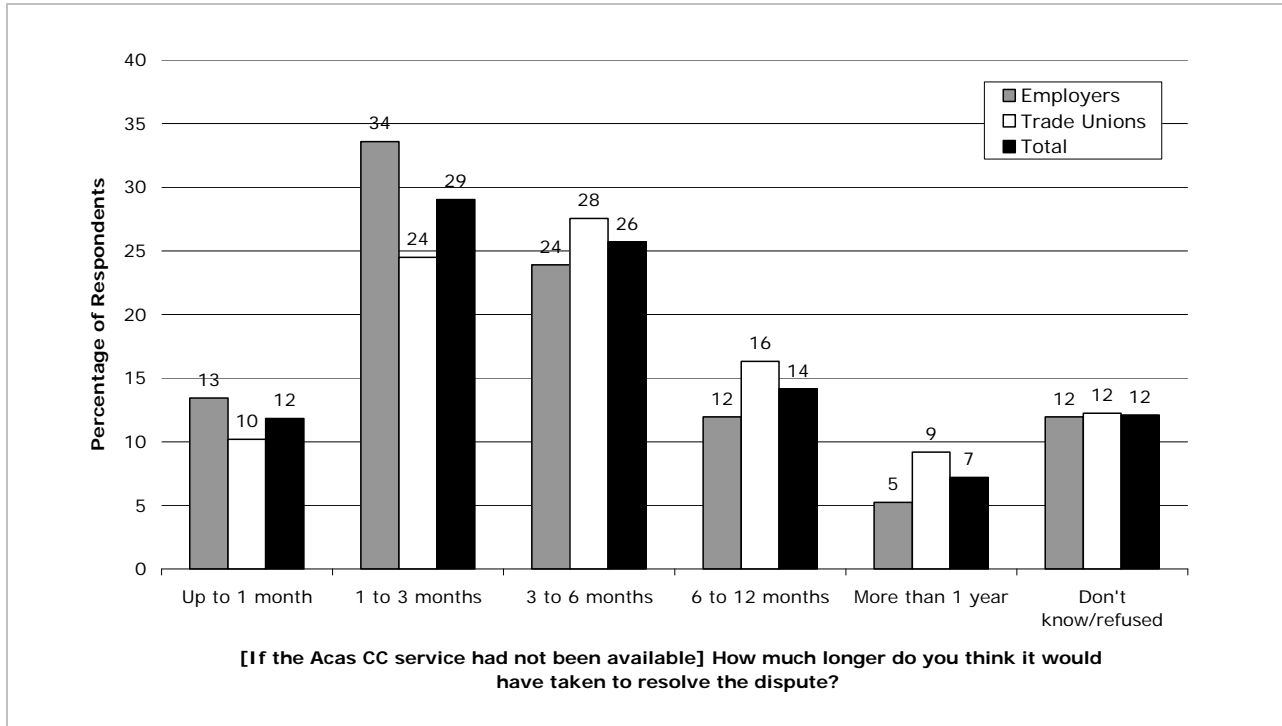
Source: Survey of Collective Conciliation customers, 2010/11. Base – all respondents (345), aggregate responses of employers and trade unions given equal weight in totals

6.2 Impact on Time Taken to Resolve Disputes

Respondents to the survey were asked to judge whether the dispute would have been resolved in a shorter or longer period of time if Acas had not been involved. 68 percent of both employer and trade union respondents reported that, if not for Acas, the dispute would have otherwise been resolved in a longer period of time, while a minority felt that the dispute would have taken a shorter period to resolve (3 percent of employers and 6 percent of trade unions). Analysis of matched cases showed that in 78 percent disputes, both parties agreed on the influence of Acas on the time taken to resolve disputes.

Where respondents reported that disputes would have taken longer to resolve without Acas conciliation, they were asked how much longer it would have taken to resolve. In general, respondents estimated that Acas conciliation helped bring forward resolution by 1 to 3 months, or 3 to 6 months (an average of 4.9 months). In matched cases, there were no statistically significant differences between the views of employers and trade unions on the effects of conciliation on the duration of the dispute. Full results are shown in Fig 6.4 (below).

Figure 6.4 Impact of conciliation on the duration of dispute



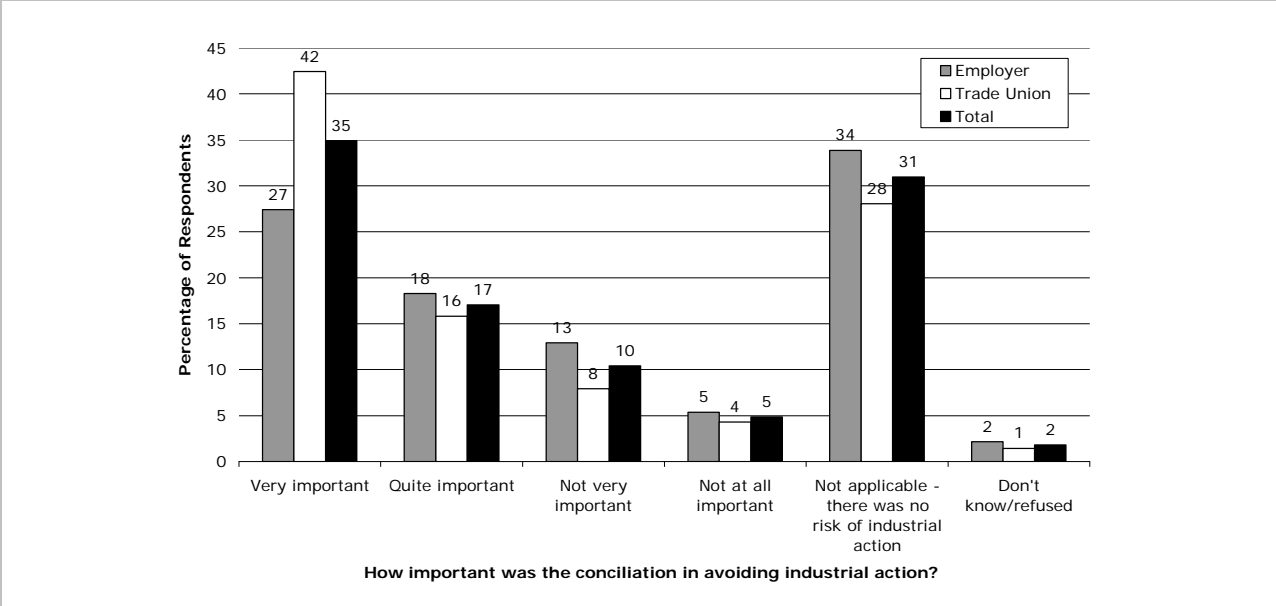
Source: Survey of Collective Conciliation customers, 2010/11. Base – respondents reporting that disputes would have otherwise taken longer to resolve, totals weighted to reflect the proportion of employer and trade union representatives covered in the survey

6.3 Impacts on the risk of industrial action

Industrial action took place following Acas conciliation only in a small minority of cases (5 percent of respondents overall reported that industrial action took place subsequent to conciliation). Respondents to the survey were asked to report the influence of the conciliation in helping to avoid industrial action. In around a third of cases, respondents reported that there had been no risk of industrial action. Where there was a risk, respondents tended to suggest the conciliation process was an important factor in helping them to avoid industrial action – with 35 percent of respondents reporting that the conciliation was ‘very important’ in avoiding industrial action.

Employers tended to feel that conciliation was less important in helping to avert industrial action than did trade union respondents, with 27 percent reporting the conciliation was ‘very important’ in the avoidance of industrial action compared to 42 percent of trade union respondents. Analysis of matched cases suggested that in 42 percent of disputes the trade union felt that the conciliation was important in averting industrial action than the employer (in a further 39 percent of disputes both sides agreed on the importance of the conciliation). However, it has already been asserted in Section 3.3.2 that in some cases, employers may underestimate the potential threat of industrial action; this may in turn have a bearing on their judgements about the importance of Acas in avoiding any such action.

Figure 6.5 Impact of conciliation on the risk of industrial action



Source: Survey of Collective Conciliation customers, 2010/11. Base: All respondents (345)

6.4 Applications to the Central Arbitration Committee

One of the potential strategies available to settle a dispute centred on recognition or de-recognition of a trade union is by using an application to the Central Arbitration Committee (CAC). It follows that the availability of Acas Collective Conciliation may have created further benefits through avoiding applications to the Central Arbitration Committee by helping disputing parties resolve their issues without recourse to formal processes. The survey suggested 19 percent of disputes involved recognition or de-recognition issues, although in about 6 percent of these cases an application had already been made by the time Acas became involved.

In cases involving recognition issues, respondents were asked to report how likely it was that an application to CAC would have been made in the absence of Acas involvement in the dispute. The survey results suggested that conciliation had a strong effect in this area, with more than half of both employers and trade union representatives reporting that an application to the CAC would have been 'very likely' or 'likely' in the absence of Acas collective conciliation. There were insufficiently large numbers of respondents reporting recognition or de-recognition issues to permit analysis of matched cases.

Table 6.1 Without Acas Conciliation, how likely is it that an application to the Central Arbitration Committee for trade union recognition/de-recognition would have been made? (Percentage of responses)

| | <i>Very likely</i> | <i>Likely</i> | <i>Unlikely</i> | <i>Very unlikely</i> | <i>Don't know/refused</i> | Total |
|---------------------|--------------------|---------------|-----------------|----------------------|---------------------------|--------------|
| Employers | 22 | 35 | 9 | 22 | 13 | 100 |
| Trade Unions | 50 | 27 | 0 | 19 | 4 | 100 |
| Total | 36 | 31 | 4 | 20 | 8 | 100 |

Source: Survey of Collective Conciliation Customers, Base: Respondents reporting that the dispute involved recognition or de-recognition issues (49), totals weighted to reflect the proportion of employer and trade union representatives covered in the survey

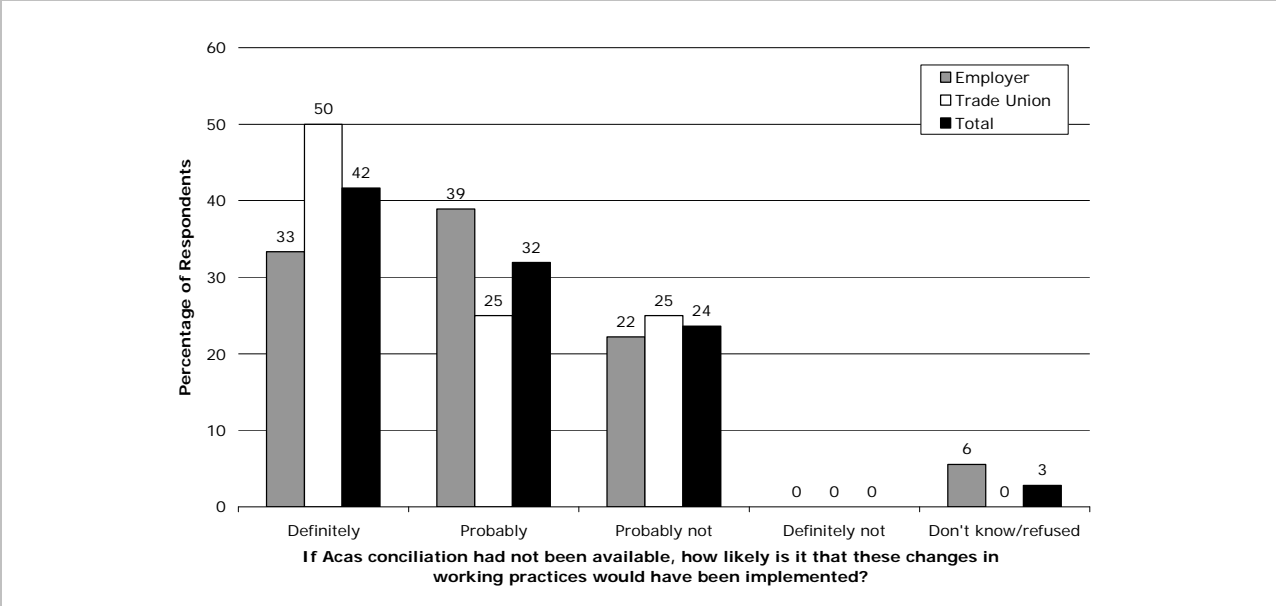
6.5 Effects on the outcome of disputes

The survey of Collective Conciliation customers suggested that around 14 percent of disputes involved issues relating to changes of working practices (other than health and safety). Around 70 percent of respondents reported that they were fully implemented following conciliation.

Employers were asked to report how far any changes in working practices implemented following conciliation had helped them to reduce costs, and protect or increase their sales. 44 percent of respondents suggested that changes in working practices had helped them reduce their costs, although there was no clear evidence that the changes made had any material effect on their sales. Respondents were also asked to report what impact they expected the changes to have on their costs per year. Few respondents were able to give a firm answer to this, though the responses given by those that could indicate a modest saving of £44,000 per annum.

Respondents tended to suggest that the influence of the Acas conciliation on the implementation of working practices was relatively limited. As shown in Fig 6.6. (below), 42 percent reported working practices would definitely have been implemented without the Acas conciliation, and a further 32 percent of respondents reported that they probably would have been implemented. Again, employers tended to view Acas as having a weaker impact on how far conciliation enabled the implementation of new working practices (again, there were insufficient numbers of observations to permit analysis of matched cases).

Figure 6.6 Impact of conciliation on implementation of new working practices



Source: Survey of Collective Conciliation customers, 2010/11. Base – respondents where new working practices were implemented following conciliation (base: 30)

6.6 Disputes in the transport sector

Industrial action has the potential to create wider economic and social welfare costs beyond the disputing parties. These negative externalities are likely to be particularly significant in the transport sector, where disruption and delays caused by industrial action can reduce the productivity of other businesses by lengthening the journeys of employees and disrupting supply chains, as well as creating welfare costs for individuals as greater proportions of their leisure time are absorbed by journeys.

Acas monitoring data for the survey sample as described in Section 1 indicates that around 20 percent of disputes occurred in the transport sector (or around 200 disputes). The transport disputes being conciliated covered a wide range of sub-sectors. Around 45 percent of disputes occurred in the freight transport industries (predominantly road), and 35 percent in passenger transport (of which 19 percent occurred with respect to public transport – bus, rail or underground services).

The survey evidence suggested that transport disputes are more likely than average to have a risk of industrial action (with 24 percent of those in the transport sector reporting no risk of industrial action, against 31 percent across all disputes). Where there was a risk of industrial action, Acas conciliation appeared equally effective in bringing transport disputes to a resolution as in disputes across all sectors.

6.7 Summary

- Overall, the survey evidence suggests that the Collective Conciliation service has in many cases played an important role in bringing collective employment disputes to a resolution (and 63 percent of respondents reported that the conciliation was 'very important in their ability to do so). High proportions of respondents suggested that they definitely or probably would not have reached a similar settlement through normal bargaining procedures (56 percent of respondents), with conciliation helping to bring parties closer together.
- High proportions of respondents reported that one of the key impacts of conciliation was to help bring resolutions to a settlement more quickly than they would have otherwise been achievable (reported by 68 percent of respondents). On average, respondents estimated that disputes may have taken an additional 5 or so months to resolve without Acas collective conciliation.
- Respondents also suggested that the Collective Conciliation service had a meaningful effect in terms of averting industrial action (where such an action was at risk). High proportions of respondents (over 50 percent) felt that the conciliation was 'very important' or 'quite important' in averting industrial action, suggesting that the service is also effective in supporting the avoidance of economically costly dispute resolution strategies. These views were echoed by those operating in the transport industry, where the costs of industrial action have the potential to be more widespread.
- Users involved in recognition disputes also reported that conciliation had helped avoid the need to take recourse to formal applications to the Central Arbitration Committee.
- Impacts on the ability of employers to implement more productive working practices were less widely reported. Respondents tended to indicate that new working practices would have been most likely implemented in the absence of conciliation (42 percent of respondents reported they would have definitely implemented these changes in the absence of conciliation).
- Trade union representatives tended to express stronger views on the impacts of Collective Conciliation in dispute resolution than employers. Employers were more likely to suggest that the dispute would have otherwise been resolved using normal bargaining procedures, and felt that conciliation was less important in terms of averting industrial action or enabling them to introduce new working practices. However, as was already asserted in chapter 3, in some cases, employers may underestimate the potential threat of industrial action; this may in turn have a bearing on their judgements about the importance of Acas in avoiding any such action.

7.0 Conclusions

This section sets out the key conclusions of this research against the six overarching study objectives.

7.1 Measure case outcomes and employee and management representatives' satisfaction with those outcomes

This research shows that a successful case outcome was reached in a high proportion of the disputes dealt with through the Acas Collective Conciliation service. Overall survey results suggested that all key issues were resolved in 63 percent of disputes, and in a further 17 percent of cases, some progress was made or the parties moved to arbitration – giving an overall success rate of 81 percent. Using a comparable measure to that employed in the 2006/07 evaluation (focusing only on matched cases where the disputing parties agreed on the outcome of the dispute), the proportion of cases with a successful outcome rises to 91 percent – suggesting that high success rates have been maintained over the five year period.

Customer satisfaction with agreed settlements was high and higher than in 2006/07: employers gave an average satisfaction rate of 5.6 out of 7 (compared to 4.9 in 2010/11), while trade unions gave an average satisfaction rate of 5.9 (5.0 in 2006/07). Satisfaction with case outcomes was high amongst both employer and trade union representatives, and there was evidence that satisfaction has improved since 2006/07.

7.2 Identify the determinants of successful outcomes and overall customer satisfaction

A core objective of the study was to identify the determinants of successful outcomes and overall customer satisfaction (including techniques employed by conciliators). Detailed statistical analysis indicated that the personal skills of the conciliator (i.e. the respondent's rating of the conciliator in terms of listening skills, building rapport, remaining impartial, and so forth) were one of the key influences over both satisfaction and the probability that a successful outcome was reached.

Additionally, the extent to which conciliators supported parties to develop solutions through exploring counterfactual scenarios (such as using 'if then' scenarios to identify areas of potential agreement), acting as a sounding board for new ideas, and getting disputing parties to brainstorm new ideas also had a positive influence over both satisfaction and the probability a successful outcome was reached. Finally, going beyond formal conciliation processes through working outside normal office hours, and introducing wider employment relations issues were also found to have a positive influence. Impartiality was also found to be important – if respondents felt that the conciliator was on their side they tended to show lower levels of customer satisfaction. These results largely reflected the results of a

comparable analysis undertaken in 2006/07 by Ipsos MORI as part of the previous evaluation of the service.

However, there were also a range of external influences on both customer satisfaction and the probability of a successful case outcome. A key external driver of satisfaction (perhaps not unexpectedly) was the extent to which a successful outcome was reached, with customers particularly valuing outcomes that involving bringing the two parties closer together on the key issues involved in the dispute. External factors had a more limited influence over the probability all key issues in a dispute were resolved, although disputes relating to working practices were less likely to be fully resolved, while the strength of relationships between workers and management also had an influence.

7.3 Establish an up to date picture of the benefits of conciliation as perceived by customers

The survey results indicated that users of Acas Collective Conciliation experienced a broad range of benefits. Responses suggested that conciliation played a strong role in helping disputing parties reach a resolution, with key effects in terms of bringing the two parties closer together on the key issues in the dispute. Relatively high proportions of customers felt they would have been unable to reach a similar agreement without using the Collective Conciliation service, with many suggesting that conciliation helped to speed up resolution of the dispute while averting industrial action. Conciliation was also reported to have a wider range of benefits beyond the dispute, particularly in terms of improving industrial relationships within the workplace.

7.4 Elicit customers' views about the various impacts of Acas collective conciliation

The positive results of the survey were also reflected in estimates of the wider impacts of the Collective Conciliation service. Respondents indicated the service had effects in terms of helping disputing parties reach a resolution to their dispute more rapidly than they otherwise would have done (and avoiding industrial action) and had a broad range of economic impacts. These included reducing the time invested by both parties in negotiations, avoiding applications to the Central Arbitration Committee, and enabling employers to implement more productive working practices.

7.5 Explore among customers how Acas might promote greater awareness and understanding of collective conciliation

The survey examined whether users of Collective Conciliation felt that there may be benefits associated with involving Acas at an earlier stage, to identify whether there might be scope to raise awareness of the service. Around 35 percent of customers felt that would possibly or definitely have been benefits in involving Acas at an early stage. When asked to state why they had not asked for Acas involvement at an earlier stage, nearly half (48 percent) of all respondents reported that they had not exhausted their dispute resolution procedures or

did not think that the dispute had progressed far enough. A further 10 percent reported that they felt the situation was not serious enough or that there was no threat of industrial action. These results suggest that it may be possible to raise usage of the Collective Conciliation service through ensuring that messages highlighting that Acas services can be provided at any stage of negotiations are communicated to Acas' customer base.

7.6 Help inform any professional development of its conciliators by Acas

This evaluation suggests that the Acas Collective Conciliation service was highly effective in 2010/11, with customers showing high rates of satisfaction both with the overall service they received and the skills of their conciliator. Detailed analysis suggested that both the likelihood of a successful case outcome and customer satisfaction were linked to the personal qualities and behaviours of the conciliator (including a range of personal qualities from listening, developing a rapport, remaining impartial and trustworthy, availability outside meetings and technical knowledge) and more so than the specific techniques they employed. However, customers almost universally rated the personal qualities of their conciliators highly – suggesting that the scope for improvement may be limited.

In general conciliators adopted the most important skills and techniques that maximise both the probability of successful case outcomes and customer satisfaction, although some improvements at the margins could potentially be achieved by going further (i.e. increased willingness to work outside normal office hours or introducing wider employment relations issues).

Annex A: Technical Annex

8.0 Technical Annex

This provides a brief technical outline of the survey and methodology employed in this study.

8.1 Questionnaire development

The first phase of the study involved developing a suitable questionnaire for the research. This process began with by using the questionnaire employed in 2006/07 as the basis for the research. This questionnaire was developed in consultation with Acas to explore the background of disputes handled, their experiences of the conciliation process (including techniques employed by conciliators to try and resolve disputes), and customer satisfaction. An analysis of the questionnaire against the objectives of the research indicated that it was largely fit for purpose.

However, the main additional research objective (in comparison to the 2006/07 study) related to the assessment of wider impacts including economic impacts. This required additional lines of questioning in the following areas:

- Additional detail on the strategies employed by disputing parties prior to Acas involvement;
- Questions designed to explore how disputing parties might have resolved the dispute in the absence of the Collective Conciliation service;
- Additional detail on potential industrial action to assess the scale of potential costs avoided through the collective conciliation service.

These additional questions were developed on the basis of an analytical framework outlining the rationale for the Collective Conciliation service and detailed consideration of the potential impacts and effects of the service, and were agreed with the Evaluation Steering Group in November 2010.

8.2 Pilot Survey

A small pilot survey of 10 Collective Conciliation customers was undertaken in December 2010 to test the new questions introduced to the questionnaire (particularly those introduced with respect to assessing the economic impacts of the service). This process indicated that in the main, the new questions were well understood by respondents – but suggested that on average the length of the survey had been extended from 23 minutes to over 30 minutes. In order to avoid possible negative impacts on response rates, minor adjustments were made to reduce the length of the questionnaire.

8.3 Sample

A sample providing trade union and employer contacts for 549 trade disputes received by Acas for Collective Conciliation between November 2010 and November 2011 (including 29 disputes for the pilot survey) was provided by Acas in January 2012. Cases were identified on the basis of the case closure date (as recorded in Acas management information). This sample was cleansed by Acas to exclude any conciliation cases that had not been concluded by the end of November 2011, any cases classed as multiple Individual Conciliation (IC) cases (i.e. those cases emanating from multiple Employment Tribunal claims and hence not treated as 'true' collective trade disputes) and any cases deemed too sensitive for primary research.

A number of employers and trade union officials were involved in multiple collective trade disputes over the period in question. In terms of unique contacts, 782 contacts were received (452 for employers and 330 for trade union representatives).

8.4 Sampling strategy

The survey aimed to undertake a census of Collective Conciliation customers and a stratified sample approach was not adopted. However, where contacts were involved in multiple disputes, it was only possible to survey the respondent about a single dispute. The following sampling rules were adopted for contacts that had been involved in multiple disputes (in order of priority):

- If another party involved had already been surveyed, the interviewer would aim to discuss that dispute to maximise the number of matched cases achieved.
- Where respondents were involved in two disputes, the interviewer would aim to discuss the most significant dispute (in terms of employees involved).
- Where respondents were involved in three or more disputes, the interviewer would aim to discuss the most recent dispute.

8.5 Main survey

An opt-out letter was sent to contacts in the sample in January 2012 – with 8 contacts choosing to opt out of the research. In order to boost response rates, a reminder letter was sent in March 2012 to the remaining active sample. Additionally, a number of contact details proved to be out of date or unusable and further cleansing was undertaken by Acas to repair these numbers.

The main survey was delivered between January 2012 and March 2012. Overall, 345 interviews were achieved (a response rate of 44 percent) with similar response rates achieved amongst employers and trade union representatives. The survey was mainly delivered using Computer Aided Telephone Interviewing (CATI), although in a minority of cases – where respondents reported they could not complete the survey by telephone, they were offered the opportunity to complete the survey via online methods. Overall, 335 interviews were completed by telephone and 10 by web.

Overall outcomes achieved are set out in the table below. 218 refusals were received (a refusal rate of 28 percent). A small number of contacts (5) reported that they had made enquiries to Acas but had not received support.

Table A.1 Survey Outcomes

| Call outcome | Outcomes | Contacts | Response Rate |
|---|------------|------------|---------------|
| Interview - employer | 198 | 452 | 0.44 |
| Interview - trade union | 147 | 330 | 0.45 |
| Total interviews achieved | 345 | 782 | 0.44 |
| Active sample at time of closure | 111 | | |
| Refusals by telephone | 218 | | |
| Opt outs | 8 | | |
| Uncontactable | 11 | | |
| Wrong/incorrect numbers | 21 | | |
| Not available during the fieldwork period | 14 | | |
| Respondent no longer available | 49 | | |
| No conciliation received | 5 | | |
| Total | 782 | | |

8.6 Representativeness

The achieved sample was examined against key Acas monitoring information to explore how far it was representative of the characteristics of users of the Collective Conciliation service, and to identify any need for re-weighting of the results. Analysis of these results suggested that the survey was largely representative of the characteristics of users of the service by dispute outcome, industry sector, and dispute cause (see tables overleaf).

However, as a larger sample of employers than trade unions was obtained through the survey, un-weighted aggregate results over-represented the views of employers. Additionally, while the bulk of the questionnaire focused on issues relating to respondents' perspectives, in some cases respondents were asked to report factual information relating to the disputes. With respect to these questions, where both sides of a dispute were covered by the survey these disputes were over-represented in the survey sample.

Two weighting schemes were adopted to address these issues:

- **Weighting of aggregate results:** In general, in reporting of aggregate results, results of the survey were weighted to give trade unions responses equal importance to those of employers (in effect, employer responses were given a weight of 0.74 and trade union results a weight of 1 in aggregate results). This reduced the effective sample size to 294.
- **Questions relating to the facts of disputes:** With respect to those questions relating to the facts of disputes, responses from employers and trade unions in matched cases were in addition given half weight (i.e. 0.5 in the case of trade unions,

and 0.37 in the case of employers). This further reduced the effective sample size to 214.

8.7 Lessons

The survey (at an average of 33 minutes) was perhaps too long, trying to address too broad a range of research objectives. In particular, the additional detail required to assess the economic impacts of the service may led to a longer than envisaged questionnaire. While there was no evidence that this had an effect in terms of respondents dropping out of the survey, it may have discouraged people from responding. In future studies, there may be merits in adopting a more focused approach – potentially separating issues of operational effectiveness from those of impact.

Table A.2 Interviews achieved by case outcome

| Dispute Cause | Population | | Survey of employers | | Survey of trade union representatives | |
|-------------------------------------|--------------|--------------|---------------------|--------------|---------------------------------------|-----------------|
| | No. of cases | % of cases | Interviews | % of cases | Interviews | % of interviews |
| Progress deadlock broken | 58 | 10.6 | 14 | 7.1 | 12 | 8.2 |
| Progress differences reduced | 66 | 12.0 | 25 | 12.6 | 16 | 10.9 |
| Progress to mediation or JWP | 6 | 1.1 | 5 | 2.5 | 3 | 2.0 |
| Request withdrawn or refused | 2 | 0.4 | 0 | 0.0 | 1 | 0.7 |
| Settled conciliation | 379 | 69.0 | 141 | 71.2 | 109 | 74.1 |
| Settled to arbitration or mediation | 9 | 1.6 | 4 | 2.0 | 2 | 1.4 |
| Unsuccessful | 29 | 5.3 | 9 | 4.5 | 4 | 2.7 |
| Total | 549 | 100.0 | 198 | 100.0 | 147 | 100.0 |

Table A.3 Interviews achieved by industrial sector

| SIC | Population | | Survey of employers | | Survey of trade union representatives | |
|--|--------------|--------------|---------------------|--------------|---------------------------------------|-----------------|
| | No. of cases | % of cases | Interviews | % of cases | Interviews | % of interviews |
| Agriculture | 3 | 0.5 | 1 | 0.5 | 0 | 0.0 |
| All other manufacturing (Includes publishing) | 78 | 14.2 | 26 | 13.1 | 17 | 11.6 |
| Construction | 15 | 2.7 | 7 | 3.5 | 5 | 3.4 |
| Education | 22 | 4.0 | 9 | 4.5 | 8 | 5.4 |
| Electricity, Water and Gas supply | 6 | 1.1 | 2 | 1.0 | 0 | 0.0 |
| Financial and other Administration | 31 | 5.6 | 8 | 4.0 | 7 | 4.8 |
| Health and Social work | 33 | 6.0 | 10 | 5.1 | 6 | 4.1 |
| Hotels and Restaurants | 5 | 0.9 | 0 | 0.0 | 2 | 1.4 |
| Manufacture Food, Beverages and Tobacco | 48 | 8.7 | 16 | 8.1 | 14 | 9.5 |
| Manufacture Motor Vehicles and other Transport | 11 | 2.0 | 3 | 1.5 | 5 | 3.4 |
| Other Community, Social and Personal Services | 49 | 8.9 | 20 | 10.1 | 15 | 10.2 |
| Other Industries | 87 | 15.8 | 32 | 16.2 | 21 | 14.3 |
| Public Administration | 39 | 7.1 | 15 | 7.6 | 19 | 12.9 |
| Transport, Storage and Communication | 102 | 18.6 | 39 | 19.7 | 25 | 17.0 |
| Wholesale and Retail | 18 | 3.3 | 9 | 4.5 | 3 | 2.0 |
| Unknown | 2 | 0.4 | 1 | 0.5 | 0 | 0.0 |
| Grand Total | 549 | 100.0 | 198 | 100.0 | 147 | 100.0 |

Table A.4 Interviews achieved by dispute cause

| Dispute Cause | Population | | Survey of employers | | Survey of trade union representatives | |
|--|-----------------|------------|---------------------|------------|---------------------------------------|-----------------|
| | Number of cases | % of cases | Interviews | % of cases | Interviews | % of interviews |
| Changes in working practices | 38 | 6.9 | 16 | 8.1 | 5 | 3.4 |
| Changes in working practices AND Dismissal / discipline | 1 | 0.2 | 1 | 0.5 | 0 | 0.0 |
| Changes in working practices AND Other | 1 | 0.2 | 1 | 0.5 | 1 | 0.7 |
| Changes in working practices AND Other pay / conditions of employment | 3 | 0.5 | 0 | 0.0 | 1 | 0.7 |
| Changes in working practices AND Other TU matters AND Other pay / conditions of employment AND General pay claim | 1 | 0.2 | 0 | 0.0 | 1 | 0.7 |
| Changes in working practices AND Redundancy | 2 | 0.4 | | 0.0 | | 0.0 |
| Dismissal / discipline | 29 | 5.3 | 9 | 4.5 | 3 | 2.0 |
| Dismissal / discipline AND Other | 2 | 0.4 | 1 | 0.5 | 1 | 0.7 |
| General pay claim | 154 | 28.1 | 60 | 30.3 | 48 | 32.7 |
| General pay claim AND Changes in working practices | 2 | 0.4 | 1 | 0.5 | 1 | 0.7 |
| General pay claim AND Other pay / conditions of employment | 3 | 0.5 | | 0.0 | | 0.0 |
| General pay claim AND Recognition | 3 | 0.5 | 2 | 1.0 | 0 | 0.0 |
| Other | 20 | 3.6 | 14 | 7.1 | 6 | 4.1 |
| Other AND Other pay / conditions of employment | 1 | 0.2 | 1 | 0.5 | 0 | 0.0 |
| Other pay / conditions of employment | 112 | 20.4 | 36 | 18.2 | 28 | 19.0 |
| Other pay / conditions of employment AND Changes in working practices | 3 | 0.5 | 1 | 0.5 | 2 | 1.4 |
| Other pay / conditions of employment AND Dismissal / discipline | 2 | 0.4 | | 0.0 | | 0.0 |
| Other pay / conditions of employment AND General pay claim | 2 | 0.4 | 2 | 1.0 | 0 | 0.0 |
| Other pay / conditions of employment AND Other | 1 | 0.2 | | 0.0 | | 0.0 |
| Other TU matters | 27 | 4.9 | 6 | 3.0 | 8 | 5.4 |
| Other TU matters AND Dismissal / discipline | 2 | 0.4 | 1 | 0.5 | 1 | 0.7 |
| Other TU matters AND Recognition | 2 | 0.4 | 2 | 1.0 | 1 | 0.7 |
| Recognition | 91 | 16.6 | 29 | 14.6 | 24 | 16.3 |
| Recognition AND Other pay / conditions of employment | 1 | 0.2 | 1 | 0.5 | 1 | 0.7 |
| Recognition AND Other TU matters | 2 | 0.4 | 0 | 0.0 | 1 | 0.7 |

| | | | | | | |
|--|------------|--------------|------------|--------------|------------|--------------|
| Redundancy | 34 | 6.2 | 11 | 5.6 | 13 | 8.8 |
| Redundancy AND Changes in working practices | 3 | 0.5 | 1 | 0.5 | 0 | 0.0 |
| Redundancy AND Dismissal / discipline | 2 | 0.4 | | 0.0 | | 0.0 |
| Redundancy AND General pay claim | 1 | 0.2 | 1 | 0.5 | 1 | 0.7 |
| Redundancy AND Other | 1 | 0.2 | | 0.0 | | 0.0 |
| Redundancy AND Other pay / conditions of employment | 2 | 0.4 | 1 | 0.5 | 0 | 0.0 |
| Redundancy AND Other pay / conditions of employment AND Changes in working practices | 1 | 0.2 | | 0.0 | | 0.0 |
| Total | 549 | 100.0 | 198 | 100.0 | 147 | 100.0 |

Annex B: Key Drivers Analysis

9.0 Key Drivers Analysis

One of the objectives of the study was to understand what conciliator skills and behaviours helped to improve customer satisfaction and increase the probability that a successful case outcome was reached. This Annex sets out the quantitative analysis employed to provide this assessment.

9.1 Describing conciliator techniques, qualities and behaviour

The survey asked respondents to describe the nature the service they received from conciliators across 41 different dimensions (of which 26 related to the techniques employed by the conciliator, and 15 related to the personal qualities of the conciliator). There was a high degree of correlation between responses given by respondents, and to make sense of the information, factor analysis was employed to describe common dimensions (factors) of conciliator behaviour (repeating the analysis undertaken by Ipsos MORI as part of 2006/07 evaluation of the service)¹.

Factor analysis is a technique that describes the overall variation across a large number of variables in a smaller number of uncorrelated variables known as factors (which are linear combinations of larger number of variables). The factor analysis suggested that conciliator behaviour could be described in terms of the 8 dimensions that accounted for 62 percent of the overall variation in the service received as described by respondents. As linear combinations of the 41 variables, the factors require some interpretation to enable them to be described in terms of conciliator skills and techniques:

- **Personal skills and behaviours:** The survey asked respondents to rate the personal qualities of conciliators across 15 dimensions on a scale of 1 to 5. These responses were all highly correlated (if a respondent rated a conciliator was rated highly on one element, they also rated them highly on other dimensions). This mirrors the results of the analogous analysis undertaken by Ipsos MORI in 2006/07.
- **Developing solutions:** Developing solutions emerged as a distinct conciliator behaviour, including exploring counterfactual scenarios with disputing parties, giving ideas of issues where the other side might compromise, asking parties to identify their bottom line, and acting as a sounding board for new ideas.
- **Explaining rules:** Explaining how conciliation worked was a widespread behaviour amongst conciliators, and was largely independent of other styles.
- **Evaluation of bargaining positions:** The analysis suggested that evaluation of negotiating positions was a typical pattern of conciliator behaviour. Here, conciliators would give an assessment of parties negotiating positions and point out the

¹ Respondents were asked to report if the conciliator helped to draft a successful agreement – this was excluded from the analysis as this would only occur in the event of a successful conciliation.

consequences of failing to reach an agreement, often while suggesting new ideas for dealing with the dispute.

- **Going further:** Some conciliators went beyond the normal conciliation process, working outside normal working hours, introducing industrial relations issues beyond those in the dispute, and discussing the situation informally outside of formal processes.
- **Understanding bargaining positions:** This aspect of conciliator behaviour included asking both parties to explain their positions and the reasons behind their arguments.
- **Systematic approach:** Conciliators were often reported to take a systematic approach to the conciliation, setting out clear ground rules and dealing with issues one at a time.
- **On your side:** Appearing on the respondent's side emerged as a separate class of behaviour (mirroring Ipsos MORI's analysis of the 2006/07 survey).

9.2 Success

A logit model¹ was implemented to explore the determinants of successful case outcomes. In this analysis, a successful outcome was defined as a case where all key issues in the dispute were settled. This is a narrower definition of success than employed by Acas. However, as a high proportion (over 80 percent) reported a successful outcome on the basis of the definition used by Acas, there was limit to the extent to which modelling could identify influences on the probability an successful outcome was achieved.

The analysis first explored the extent to which external influences (the background and characteristics of disputes, and the characteristics of the organisation involved in the dispute) had a significant influence over whether a successful outcome was achieved. This analysis suggested that such external influences had a limited influence over the probability that all key issues in a dispute were settled – with the favoured model explaining just 11 percent in the overall variation in case outcomes.

However, the analysis suggested that disputes related to working practices less likely to be resolved. Disputes where respondents reported that the main reason they had decided to use Acas was that Acas was written into dispute resolution procedures were also less likely to be resolved. Disputes were more likely to be resolved where the dispute related to multiple (rather than single) workplaces, and where the main reason for seeking third party support was to avoid industrial action. Additionally, the key issues involved in dispute were more likely to be resolved where relationships between workers and management were 'very good' and where dispute numbers were low (involving 1 to 4 employees).

¹ A regression model designed to assess the impact of a range of independent variables on the probability that a particular event or outcome occurs.

This analysis was extended to explore the influence of conciliator techniques (as described above) on the probability a successful outcome was achieved. This almost doubled the proportion of the variance in case outcomes accounted for by the model (rising to 19 percent), suggesting that the behaviour of the conciliator had around an 8 percent influence over the eventual outcome of the dispute. Three dimensions of conciliator behaviour appeared to have a significant influence on the probability of a successful outcome:

- **Personal skills and behaviours** – the most important influence on the probability that all key issues in a dispute were settled were the personal qualities of the conciliator (as assessed by the respondent). Personal skills accounted for 60 percent of the influence of the conciliator over successful case outcomes.
- **Developing solutions** – the extent to which conciliator supported disputing parties to develop solutions was a secondary influence over successful case outcomes, accounting for 20 percent of the influence of the conciliator over successful case outcomes.
- **Going further** – going beyond the normal conciliation process also had a positive influence over the probability that positive case outcomes were achieved, again accounting for 20 percent of the influence of the conciliator over successful case outcomes.

Full regression results are set out in the table below. The coefficients presented illustrate the influence of the independent variable on the probability a positive outcome is achieved¹. The slope coefficients give the impact of the independent variables on the probability that a positive outcome is achieved evaluated at the mean of the independent variables (so for example, on average, disputes relating to working practices are 17 percent less likely to be resolved than disputes that do not involve such issues). The conciliator skills included in the model are factors – linear combinations of the 41 questions asked in the survey to describe the skills and techniques employed by the conciliator – and as such, the coefficients do not have a direct interpretation. All estimated coefficients were significant at the 10 percent level in the favoured model.

¹ A logit model is based on the logistic function: $f(z) = 1 / (1 + e^{-z})$, where $z = a + b_1X_1 + \dots + b_nX_n$. The coefficients of the logit model correspondent to the values $a, b_1 \dots b_n$.

Table A.1 Determinants of case outcomes – favoured logit model. Dependant variable – all key issues in the dispute resolved (1 = Yes, 0 = No)

| | Coefficient | Std. Error | z | Slope* |
|--|-------------|------------|-------|--------|
| Constant | 3.41 | 1.08 | 3.17 | |
| Dispute relating to working practices (1 = Yes, 0 = No) | -0.73 | 0.38 | -1.93 | -0.17 |
| Dispute covers multiple workplaces (1 = Yes, 0 = No) | 0.64 | 0.32 | 2.03 | 0.13 |
| <i>State of relationships between management and workers (dummy variables with 'very good' providing the reference case)</i> | | | | |
| Very poor | -1.82 | 0.66 | -2.76 | -0.43 |
| Poor | -1.92 | 0.60 | -3.19 | -0.44 |
| Neither good nor poor | -1.07 | 0.60 | -1.79 | -0.25 |
| Good | -1.31 | 0.58 | -2.26 | -0.30 |
| Main reason for seeking third party support: wanted to avoid industrial action (1 = Yes, 0 = No) | 2.07 | 0.85 | 2.44 | 0.29 |
| Main reason for using Acas: Acas was part of dispute resolution procedures (1 = Yes, 0 = No) | -0.58 | 0.31 | -1.88 | -0.13 |
| <i>Dispute numbers (dummy variables, 1 to 4 providing reference case)</i> | | | | |
| Dispute numbers – 5 to 9 | -3.06 | 1.32 | -2.32 | -0.59 |
| Dispute numbers –10 to 49 | -1.98 | 0.89 | -2.23 | -0.46 |
| Dispute numbers – 50 to 99 | -2.34 | 0.89 | -2.63 | -0.53 |
| Dispute numbers – 100 to 149 | -2.18 | 0.89 | -2.46 | -0.50 |
| Dispute numbers – 250 to 499 | -2.87 | 0.94 | -3.06 | -0.60 |
| Dispute numbers – 500 to 999 | -2.01 | 1.00 | -2.02 | -0.46 |
| Dispute numbers – 1000 or more | -3.13 | 1.00 | -3.14 | -0.61 |
| Presence of collective dispute resolution procedures (1 = Yes, 0 = No) | 0.80 | 0.42 | 1.90 | 0.19 |
| Conciliator skills (factors) | | | | |
| Personal skills | 0.81 | 0.17 | 4.66 | 0.18 |
| Developing solutions | 0.27 | 0.13 | 2.11 | 0.06 |
| Going further | 0.27 | 0.15 | 1.85 | 0.06 |

9.3 Satisfaction

Respondents to the survey reported their overall satisfaction with the Collective Conciliation service on a 1 to 7 scale. In order to explore the determinants of customer satisfaction, an ordered logit model¹ was developed to identify the external and internal drivers of customer satisfaction.

As with the analysis relating to success, the influence of external factors (such as the background for the dispute and the strategies employed before Acas became involved) in determining customer satisfaction were explored first. Regression results indicated that on average, voluntary sector organisations tended to show higher rates of customer satisfaction. Customer satisfaction depended to some extent on the strategies employed by both parties before Acas was involved – those involved in cases in which publicity had been employed by either party tended to be less satisfied on average, while those involved in cases in which the issues had been escalated to higher ranked personnel tended to be more satisfied.

However, the key determinants of satisfaction related to the outcome of the dispute. Respondents tended to be more satisfied if a successful outcome had been achieved, if Acas conciliation had helped bring the two parties closer together, and if the dispute would 'definitely not' have been resolved using normal bargaining procedures in the absence of collective conciliation.,

Nevertheless, the analysis indicated that the behaviour of the conciliator had a strong influence over satisfaction. Again, the personal skills of the conciliator were found to have the strongest positive influence over the customer satisfaction. However, the ability of the conciliator to help develop solutions, to go beyond normal conciliation processes, and adopting a systematic approach were all found to have a positive influence over customer satisfaction. However, respondents tended to show lower rates of customer satisfaction if the conciliator was felt to be on their side.

Full regression results are set out in the table below. The coefficients of the regression have a similar interpretation to those outlined above for the logit model relating to success. The additional terms (threshold values – cut1 to cut6) help predict the probability a respondent (based on the dependant variables) falls into a particular response category for satisfaction (i.e. giving an overall satisfaction rate of 5, 6 or 7 for example).

¹ Ordered logit models are regression models designed for ordered category variables – such as responses to survey questions where respondents report against a scale.

**Table A.2 Determinants of customer satisfaction – favoured ordered logit model.
Dependant variable – all key issues in the dispute resolved (1 = Yes, 0 = No)**

| Variable | Coefficient | Std. Error | z | p-value |
|--|-------------|------------|-------|---------|
| <i>Industrial sector (dummy variables, voluntary sector used as a reference case)</i> | | | | |
| Public sector | -0.84 | 0.47 | -1.78 | 0.07 |
| Private sector | -0.92 | 0.44 | -2.10 | 0.04 |
| Publicity employed as a strategy prior to Acas involvement (1 = Yes, 0 = No) | -1.21 | 0.44 | -2.76 | 0.01 |
| Escalation to higher ranked personnel employed as a strategy prior to Acas involvement? | 0.56 | 0.24 | 2.36 | 0.02 |
| All key issues in the dispute were settled (1 = Yes, 0 = No) | 0.99 | 0.25 | 4.03 | 0.00 |
| <i>Acas brought the two side closer to each other on the key issues in the dispute (Dummy variables, 'Strongly Agree' used a reference case)</i> | | | | |
| Strongly disagree | -2.44 | 0.51 | -4.74 | 0.00 |
| Disagree | -2.66 | 0.53 | -5.04 | 0.00 |
| Neither agree nor disagree | -1.80 | 0.42 | -4.32 | 0.00 |
| Agree | -1.48 | 0.30 | -4.92 | 0.00 |
| Dispute would 'definitely not' have been resolved through normal bargaining procedures (1 = Yes, 0 = No) | 0.73 | 0.31 | 2.33 | 0.02 |
| Conciliator skills | | | | |
| Personal skills | 1.43 | 0.24 | 6.05 | 0.00 |
| Developing solutions | 0.49 | 0.13 | 3.66 | 0.00 |
| Going further | 0.37 | 0.12 | 3.06 | 0.00 |
| Systematic approach | 0.41 | 0.12 | 3.49 | 0.00 |
| On your side | -0.20 | 0.10 | -1.90 | 0.06 |
| Threshold values | | | | |
| Cut1 | -11.88 | 2.30 | -5.17 | 0.00 |
| Cut2 | -8.53 | 1.03 | -8.27 | 0.00 |
| Cut3 | -7.08 | 0.74 | -9.52 | 0.00 |
| Cut4 | -5.02 | 0.61 | -8.18 | 0.00 |
| Cut5 | -2.92 | 0.55 | -5.27 | 0.00 |
| Cut6 | -0.61 | 0.52 | -1.19 | 0.23 |

